Kaufman and Broad of Northern California, Inc.

6379 Clark Avenue • Mailing: P.O. Box 2755
Dublin, California 94568
(415) 829-4500

SNW
RRS
5/21

Kaufman & Broad

May 17, 1984

2.

Mr. John Richardson
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Dear Mr. Richardson:

Re: Ruby Creek Improvements at Tully Road, San Jose

Your office had inquired a couple of weeks ago about specific information on Ruby Creek improvements, saying a letter would follow. I have not yet received a letter, so I will attempt to answer your questions as I remember them.

The contractor we used for the creek improvements was West Valley Construction of San Jose.

As you know, the 4" steel water pipe was exposed, and we had them put it underground six to seven feet. It is located below Klein Road next to Ruby Creek.

The pipe is ASTM# A-120, schedule 40 steel, 4" steel diameter pipe. The coating is X-Tru Coat, and it is wrapped with #600 primer and #600 Wrap, with the welds having 3 passes, which is standard specs.

Let me know if you have any further questions.

Very truly yours,

KAUFMAN & BROAD of
Northern California, Inc.

David G. Corliss
Asst. Vice President
Forward Planning

DGC:jj

'84 MAY 21 PM 2:07

SANTA CLARA
VALLEY WATER DISTRICT

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (01-13-84)

No.	Name	Initial	1984	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GILL				
	HENLEY				
	KRIEGE				
/	SMITH	AS			
	WILSON				

NOTE: ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF ORIGINAL ENCLOSURES OR ATTACHMENTS ARE TO BE RETAINED.

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	Melton					Fujii					Marovich			
	Personnel					Fujita								
						Simons, E.								
						Smith, J.								
	KRIEGE					SMITH, R.					GILL			
	Cournoyer					Wolfe					Bramblett			
	Erling				3	Carlsen					Cotton			
	So.Co. Office Cooper, J.					Hall					Dean			
	Regadanz					Lawrie					Ferguson			
	Sutcliffe					McNeely					Pardini			
						Talley								
						Wilson, B.								

ACTION CODES
A. Rush
B. Contact Me.
C. Follow Up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare Response
L. Coordinate

Remarks:

Kaufman and Broad of Northern California, Inc.

6379 Clark Avenue • Mailing: P.O. Box 2755
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(415) 829-4500

SNW
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Kaufman & Broad

May 17, 1984

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Santa Clara Valley Water District
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San Jose, CA 95118

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KAUFMAN & BROAD of
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David G. Corliss
Asst. Vice President
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DGC:jj

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VALLEY WATER DISTRICT

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

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	KRIEGE					SMITH, R.					GILL			
	Cournoyer				1	Wolfe	8				Bramblett			
	Erling				2	Carlsen					Cotton			
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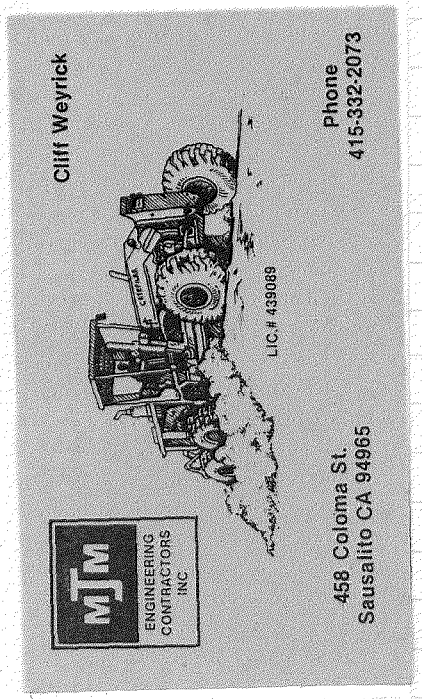
Remarks:

2

Klein Homes Water Co
201 Burlington Dr
Vacaville Ca
95482
707 4624134
Local #
415 3669301



To: BC
Date: 5/19/84 Time: 2:03

MESSAGE FROM:

Name: Dennis Connolly
Of: Thermal
Phone: 415-342-3523

☒ Telephoned ☒ Please Call Back
☐ Returned Your Call ☐ Will Call Again
☐ Was Here ☐ Wants to See You
☐ Urgent ☐ See Attached

Klein Homes Water Co.
Ruby Cruz

☐ Continued on Reverse Side
Signed: DMC

FC 255 (02-28-80)

Hertz Equipment Rental & Leasing

#1 in Construction and Industrial Equipment Rentals

Little Lake Water Co
Willits, Calif.
Clifford V. Horn.
457 Lakeview Way
Redwood City, Calif.
94062

Eve ph.
366-9301

Hertz Branch Locations

Albuquerque, NM—(505) 345-5301
Arlington, TX—(817) 649-8884
Atlanta, GA—(404) 351-5920
Austin, TX—(512) 444-8514
Baton Rouge, LA—(504) 926-9239
Beaumont, TX—(713) 722-3476
Birmingham, AL—(205) 988-8530
Boston, MA—(617) 442-4210
Charlotte, NC—(704) 376-3578
Columbia, SC—(803) 256-6053
Colton, CA—(714)-825-9692
Compton, CA—(213) 637-7368
Dallas, TX—(214) 637-2260
North Dallas, TX—(214) 644-0070
East Chicago, IN—(219) 397-4098
Fort Myers, FL—(813) 334-6322
Fort Worth, TX—(817) 625-5521
Fremont, CA—(415) 490-2140
Greensboro, NC—(919) 275-0775
North Houston, TX—(713) 692-5911
South Houston, TX—(713) 641-2391
West Houston, TX—(713) 578-8810
Jacksonville, FL—(904) 384-3425
Kenner, LA—(504) 729-2561
Longview, TX—(214) 757-4171
Marietta, GA—(404) 427-3748
Miami, FL—(305) 592-5770
Mobile, AL—(205) 473-8601
Monroe, LA—(318) 325-7100
Nashville, TN—(615) 242-4486
New Orleans, LA—(504) 242-9400
Norcross, GA—(404) 448-6780
(404) 448-6282
Norfolk, VA—(804) 461-0189
Oklahoma City, OK—(405) 239-7721
Orlando, FL—(305) 298-3940
Pennsauken, NJ—(609) 665-5671
Pensacola, FL—(904) 432-7711
Phoenix, AZ—(602) 269-5931
Pompano Beach, FL—(305) 781-9953
Portland, OR—(503) 283-2581
Raleigh, NC—(919) 834-2527
St. Louis, MO—(314) 432-7344
San Antonio, TX—(512) 661-4281
San Diego, CA—(714) 566-9580
Santa Ana, CA—(714) 547-9521
Seattle, WA—(206) 682-1500
Shreveport, LA—(318) 865-8411
Snohomish, WA—(206) 258-2515
(206) 568-3102
Tacoma, WA—(206) 383-3863
Tampa, FL—(813) 872-7805
Tulsa, OK—(918) 622-7150
West Palm Beach, FL—(305) 848-4336
Winston-Salem, NC—(919) 723-0744

Carlsen

Permit No. 82430

File: Permits, East Zone
Ruby Creek
Tully Road Extension
and Klein Road

Re: Creek and Retention Basin
Construction (Tract 6377)
82A606, 82P606
Round File 4-133

May 1, 1984

Mr. Rob Miller
Kauffman and Broad
6379 Clark Avenue
Dublin, CA 94568

Attention Mr. Dave Corliss

Dear Mr. Miller:

Subject: District Permit 82430, Ruby Creek

In reference to condition seven and nine of subject permit, please furnish the name of the independent consulting engineer and individuals who will be performing contract administration and resident engineering services for detailed inspection of the cast-in-place pipe and sediment control facility. The inspector should perform standard concrete tests and wall thickness measurements as required by the specifications and keep construction and testing records. A weekly report detailing the progress of work and results of test cylinders and measurements should be sent to Santa Clara Valley Water District in care of Mr. Harvey Passanisi, 5750 Almaden Expressway, San Jose, California 95118.

In reference to condition ten of subject permit, please advise if all right of way has been acquired in the area of the sedimentation control facility.

We understand that the water pipe across the sediment control facility has been lowered. In our letter of September 21, 1981, we requested a detailed plan for review if it was to be relocated under the basin. This work has been done without our review and the District can accept no responsibility regarding the authority to do this work or the work itself.

Please furnish as-built drawings of the pipes location along with specifications regarding the pipe used.

Very truly yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Mr. D. Kent Dewell
Director of Public Works
City of San Jose
801 North First Street
San Jose, CA 95110

Mr. D. M. Uyeda
Hydraulics Division
City of San Jose

Mr. Bob Kenton
Design and Construction Division
City of San Jose

H.M.H., Inc.
1353 Oakland Road
San Jose, CA 95112

Mr. Joe Henderson
Engineering Services Division
City of San Jose

Mr. Frank Cirigliano
Construction Manager
City of San Jose

J. Hall, D. Erling, J. Sutcliffe, S. Wolfe, A. Codiroli, E. Sullivan, W. Carlsen, A. Henley, B. Smith, H. Passanisi

WFC:nn:00L4603

Kaufman and Broad of Northern California, Inc.

6379 Clark Avenue • Mailing: P.O. Box 2755
Dublin, California 94568
(415) 829-4500

Kaufman & Broad

5/30 WFC w/a
RRS

May 25, 1984

Mr. W.F. Carlsen, Div. Engineer
Design Coordination Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Dear Mr. Carlsen:

Re: Ruby Creek Improvements

This is in response to the information you requested in your letter of May 1, 1984, addressed to Rob Miller, to my attention.

1. Enclosed is a drawing of what was done.

2. The independent consulting engineer was:
   Mr. Ray Bold
   Charles W. Davidson Co.
   90 East Gish Road
   San Jose, CA 95112
   Tel. (408) 295-9162

3. The concrete testing service is:
   Mr. Rick Navarro
   Testing Engineers, Inc.
   401 Aldo Avenue
   Santa Clara, CA 95050
   Tel (408)988-8888

Let me know if there is any additional information you need.

Very truly yours,

KAUFMAN & BROAD of
Northern California, Inc.

David G. Corliss
Asst. Vice President
Forward Planning

DGC:jj

Enclosure

'84 MAY 30 PM 1:14
SANTA CLARA
VALLEY WATER DISTRICT

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (01-13-84)

No.	Name	Initial	1984	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GILL				
	HENLEY				
	KRIEGE				
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						Wilson, B.								

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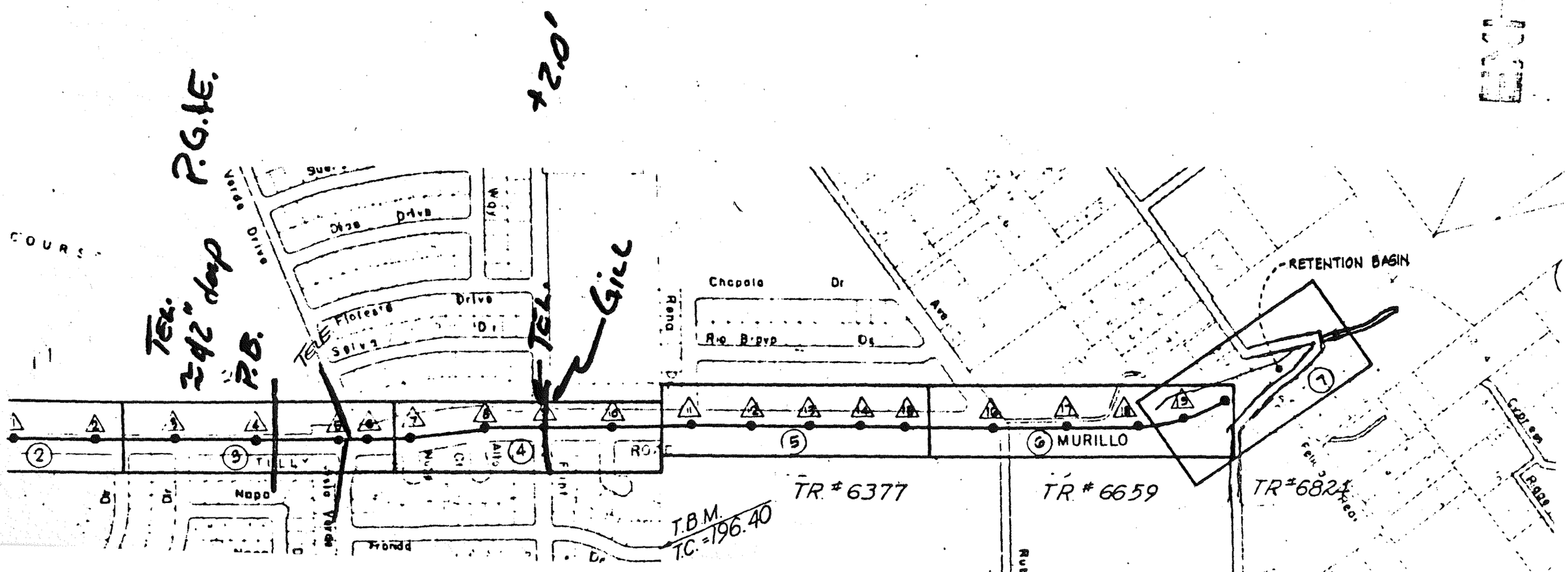
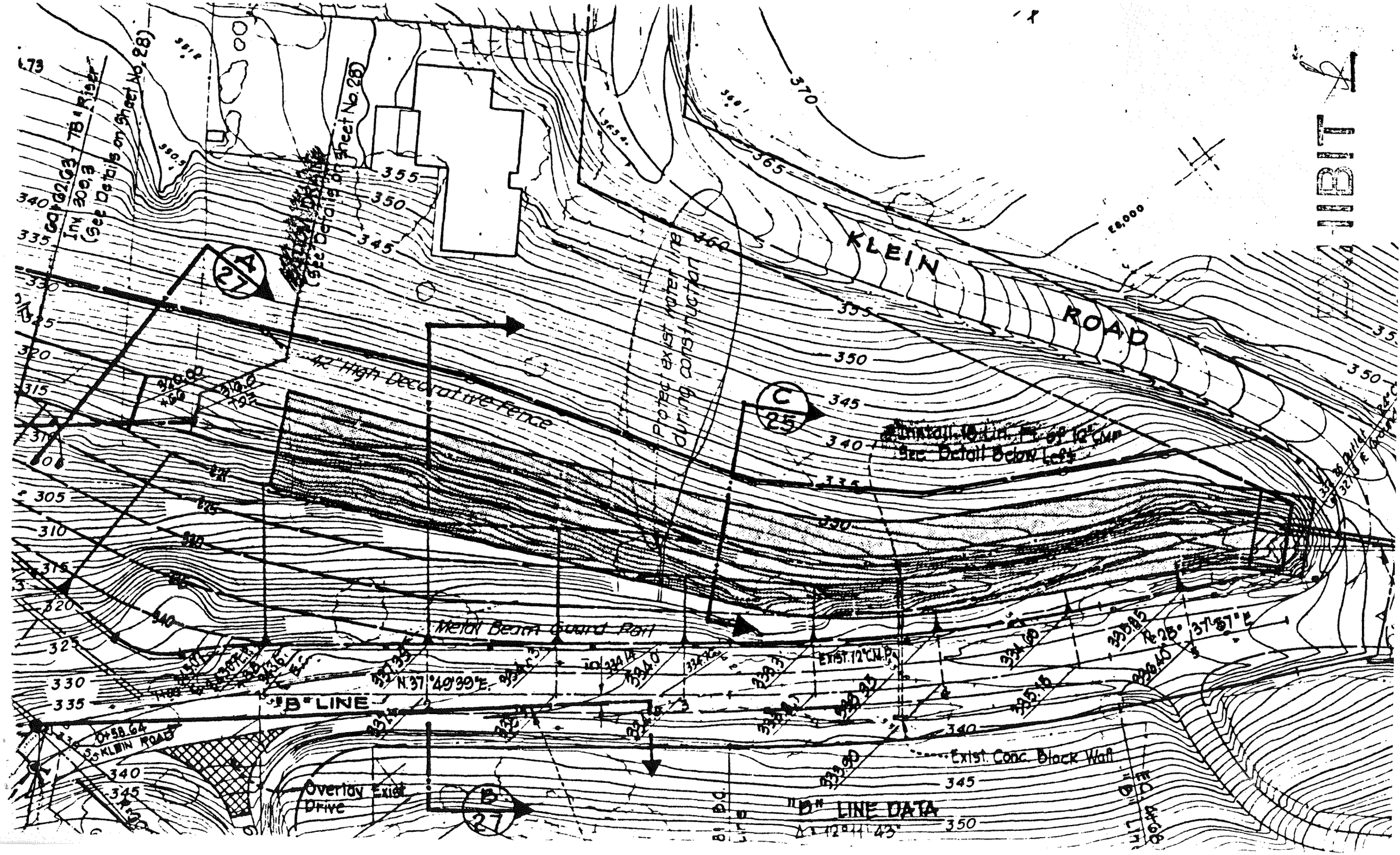
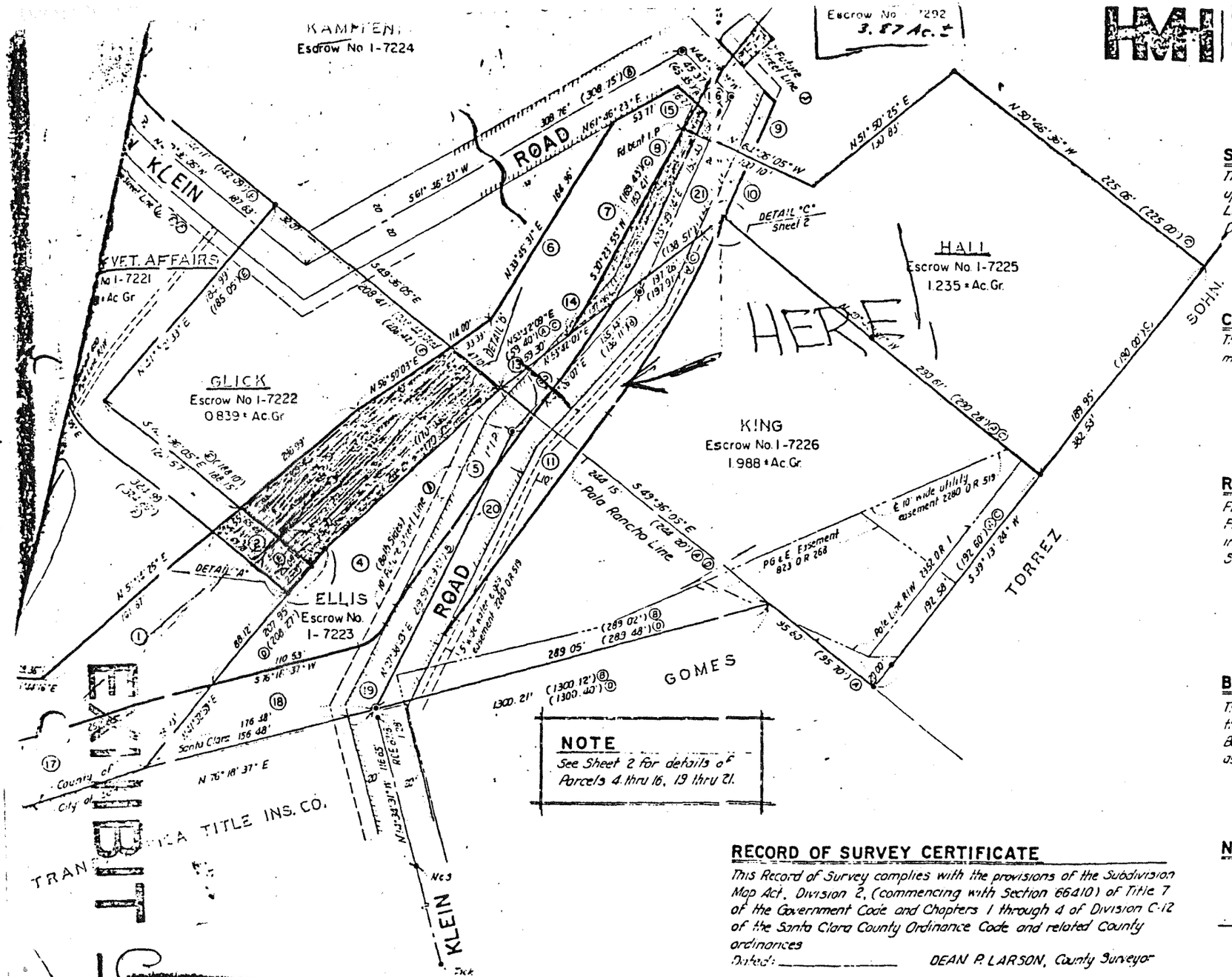
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare Response
L. Coordinate

Remarks:

PLANS FOR THE IMPROVEMENT OF
RUBY CREEK FLOOD CONTROL PROJECT
TO ACCOMPANY IMPROVEMENT PLANS OF TRACT NO. 6377




KLEIN ROAD
42" High Decorative Fence
Protect exist. water line during construction
Install 10 Lin. Ft. of 12" CMP See Detail Below Left
Metal Beam Guard Rail
"B" LINE
N.37°49'39"E.
Exist. 12" C.M.P.
Exist. Conc. Block Wall
Overlay Exist. Drive
"B" LINE DATA
Δ = 12°44'43"
D = 8°
L = 143.24
R = 718.31
T = 80.40
Exist. Drain See Detail on Sheet No. 28
Sta. 62+63 - TB = Rise Inv. 300.3 (See Details on Sheet No. 28)
0+58.64 KLEIN ROAD
A 27
B 27
C 25
EXHIBIT 4



NOTE

See Sheet 2 for details of Parcels 4 thru 16, 19 thru 21.

H.M.H. INCORPOR
Consulting Civil Engineer
1415 KOLL CIRCLE SUITE 107 SAN JOSE

SURVEYOR'S CERTI

This map was prepared by upon a field survey in co Land Surveyors' Act at District, in September 1

COUNTY SURVEYOR

This map has been ex ments of the Land Surve

BY ___

RECORDER'S CERTI

File No. ___

Filed this ___ day in Book ___ of Map Santa Clara Valley Water

BY ___

BASIS OF BEAR

The bearing N 76°18'37" E that certain map entitled Book 229 of Maps at page as the basis of bearings show

RECORD OF SURVEY CERTIFICATE

This Record of Survey complies with the provisions of the Subdivision Map Act, Division 2, (commencing with Section 66410) of Title 7 of the Government Code and Chapters 1 through 4 of Division C-12 of the Santa Clara County Ordinance Code and related County ordinances

Dated: _____ DEAN P. LARSON, County Surveyor

NOTES & LEGEND

- ◉ Monument found, Brass Surveyor" or as noted
- • 3/4" I.P. found or as no
- ____ Indicates Exist Ro

Permit No. 82430
File: Permits, East Zone
Ruby Creek
Tully Road Extension
and Klein Road

Re: Creek and Retention Basin
Construction (Tract 6477)
P082430
82A606, 82P606
Round File 4-133

September 24, 1984

Mr. Gerald A. Gates
Kaufman & Broad
Post Office Box 2755
Dublin, CA 94568

Dear Mr. Gates:

Subject: Ruby Creek - District Permit 82430

This is in reply to your letter of September 17, 1984 regarding the proposed suspension of a water line across the Ruby Creek sediment reduction basin.

We have discussed this matter with Dr. Goldner, our Environmental Specialist, and he believes that a pipe suspended 12 feet over the basin would be a significant visual impact and should not be allowed. We believe our permitting the proposed pipe installation would not be in keeping with our compact with the immediate neighbors regarding the visual appearance of the debris basin. Prior to the construction of the basin, we had met with considerable resistance based on this issue.

We also believe such a suspended line would be an attractive nuisance and could be a hazard.

Therefore, we could not approve such a suspended line. We suggest that other means be investigated such as going aroild the basin or going under the basin with two lines, one as a backup.

Please send detailed plans showing the existing pipe installation in relation to the grasscrete lining. Please also send detailed plans of any other proposed crossing for our review and issuance of a permit.

Very truly yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Mr. Ray Bold
Charles Davidson Co.
90 E. Gish Road
San Jose, CA 95112

Mr. Joe Henderson
Engineering Services Division
City of San Jose

Mr. Frank Cirigliano
Construction Manager
City of San Jose

bc: J. Hall
D. Erling
S. Wolfe
A. Codiroli
E. Sullivan
W. Carlsen
A. Henley
H. Passanisi
J. Nichols

WFC:hs

Kaufman and Broad of Northern California, Inc.

6379 Clark Avenue • Mailing: P.O. Box 2755
Dublin, California 94568
(415) 829-4500

Kaufman & Broad

9/18 orig EHS WFC

September 17, 1984

RECEIVED
SEP 18 1984
S. C. V. W. D.

Mr. William F. Carlsen
Division Engineer
Santa Clara Valley Water District
Design Coordination Division
5750 Almaden Expressway
San Jose, CA 95118

RE: Ruby Creek Retention Basin - Suspended Klein Water Company Pipe

Dear Mr. Carlsen:

At our meeting on Thursday September 6th, you objected to our request of suspending the Klein Water Co. four-inch pipe over the Ruby Creek Retention Basin for three reasons: 1) difficulty in maintaining the Retention Basin, 2) the visual impact of a suspended pipe, and 3) the liability issue.

As you no doubt recall, Mr. Erling stated at the meeting that if the pipe and its support structure were at least twelve feet above the floor of the Retention Basin, his maintenance equipment could operate. I believe we can design the suspended water pipe and support structure in a fashion which will provide the twelve feet of clearance Mr. Erling needs.

With regard to the visual impact issue, you were going to ask for the opinion of Mr. Berne Goldner, the District's Environmental Specialist. I am very interested in knowing Mr. Goldner's opinion on this matter.

Of course, I believe the suspended pipe can be designed and built in a manner that would mitigate any reasonable concern for liability. Even the Design Drawing we left with you two weeks ago included many features which eliminate various concerns regarding liability. Since the water pipe is the property of others, I cannot understand why the Santa Clara Valley Water District would have any concern with liability anyway.

Since Kaufman and Broad is currently at a standstill on this project, I must respectfully request a written response from you on this entire matter. It is critical that we understand your current position as soon as possible so that we can proceed with this important project.

You cooperation is greatly appreciated.

Very truly yours,

KAUFMAN & BROAD
of Northern California, Inc.

Gerald A. Gates

Gerald A. Gates
Vice President
Director of Operations

GAG/jh

C/W CONSTRUCTION SPECIALTIES
SOIL STABILIZATION/DRAINAGE & EROSION CONTROL
4744 Mission Bell Ln.
La Mesa/California 92041
Tel: 619/697-3935

7/18 - WFC w/a RRS

LETTER OF TRANSMITTAL

DATE 7/16/84	JOB NO.
ATTENTION Bill Carlson	
RE: Tri-lock in lieu of Grass-crete	

TO Santa Clara Water District
750 Aladen Expressway
San Jose, Ca. 95118

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via _____ the following items:

☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☒ Copy of letter ☐ Change order ☒ Project list

COPIES	DATE	NO.	DESCRIPTION
~~1~~	~~11/1/83~~		~~Letter from City of San Clemente~~
1	9/23/83		Letter to the design Engineer
1			Tri-lock Project Summary

RECEIVED
JUL 18 1984
S.C.V.W.D.

THESE ARE TRANSMITTED as checked below:

☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☒ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____ corrected prints
☐ For review and comment ☐ _____
☐ FOR BIDS DUE _____ 19 _____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS Bill,

The concern for long term maintenance is a very valid one. The City of San Clemente had some similiar concerns. I have enclosed some of the appropriate correspondence that addresses this issue. As I indicated on the phone, Tri-lock is a minimum of 4000 psi with a great deal of flexibility so that there are actually fewer problems with Tri-lock than with other types of linings such as gabions, rigid concrete slope paving, rip-rap and even Grass-crete. As the enclosed photo indicates, vehicles have to travel over the Tri-lock in order to place the original topsoil right from the start.

COPY TO Cliff Wyrick, MJM Engr. Contractors, Inc.

SIGNED: Robert H. Cranston
ROBERT H. CRANSTON

If enclosures are not as noted, kindly notify us at once.

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (06-05-84)

No.	Name	Initial	1984	Code	Comments
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	ESAU				
	GILL				
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	KRIEGE				
	PINO				
	SMITH				
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J. Signature
K. Prepare Response
L. Coordinate

Remarks:

4744 Mission Bell Ln.
La Mesa, CA 92041
(619) 697-3935

C/W CONSTRUCTION SPECIALTIES
Soil Stabilization, Drainage & Erosion Control

ROBERT A. CRANSTON, V.P.
General Manager

CONSTRUCTION SPECIALTIES
4744 Mission Bell Lane • La Mesa, CA 92041 • (619) 697-3935
A DIVISION OF CRANSTON-WING CONSTRUCTION SPECIALTIES, INC.

9/23/83

Madole & Associates, Inc.
1860 E. 16th Street
Santa Ana, CA 92701

ATT: Douglas Clemens

RE: Estrella Golf Course

Dear Doug,

Yesterday you indicated to me that there is strong concern on the part of the officials from the City of San Clemente regarding future potential maintenance costs for an open channel through the golf course. With today's reduced budgets and increased costs, their concern is a valid one.

We have established that Tri-lock is one of the few, if not only, alternatives that would function on the existing alluvial soils without considerable and expensive over excavation and recompaction. Because the 4010 units weigh only 30 lb./sq.ft., even the worst of load bearing soils are capable of supporting Tri-lock. Plus, with Tri-lock's interlock, a continuous, jointless membrane is created, providing even further "bridging strength."

By physical, in place, example (see letter from Dannenbaum Engineering Corp.), we have also proven Tri-lock's resistance to high velocity flows. Presently installed at velocities of up to 22 fps., which is almost twice the velocity anticipated here, Tri-lock has been tested at maximum discharge on regular intervals since it was installed.

Now, let us address the areas of possible maintenance, especially considering Orange County's and quite possibly, San Clemente's previous experiences with flood control channels:

1) Localized failure or "pop-outs" - This occurs with rock rip-rap frequently because each boulder must be capable of withstanding the force of moving water. Tri-lock interlocks at three points to form a continuous membrane. If you examine the point of interlock, you will see that there is a taper on the lock block. This taper precludes removing

the key block by any angular force, except absolutely perpendicular to the plane of the Tri-lock, a phenomenon which simply does not occur in nature, except as a result of hydrostatic pressure from beneath. With Tri-lock's 20% open area, hydrostatic pressure cannot build up sufficiently to cause a "pop-out." The only other way to remove the Tri-lock units is by a shear failure at the lock. The project referred to in the letter from Jack Fowler was improperly installed by the contractor whereby the Tri-lock was placed on too steep a slope and left well short of the toe. The result was that the unprotected toe eroded away during a major storm resulting in 28 feet of Tri-lock hanging vertically in the river, and we still never lost a block! We have even lifted 20 ft. mats from one end without shearing any blocks.

2) Joint replacement - There are no joints in the Tri-lock system, unlike concrete channel lining, so there are no replacement costs.

3) Damage due to vandalism - The Tri-lock is designed to be backfilled, which makes physical removal impossible. The only way the units can be broken is with a sledge hammer which is unlikely to occur. But if this were the case, remember that Tri-lock interlocks at three points, so if one or even two were broken, the integrity of the membrane is still there. If, even more unlikely to happen, all three points of interlock were broken, the Tri-lock units can be easily replaced for approximately $2.00/sq. ft.

4) Deterioration - Tri-lock is produced from 3000 psi. minimum concrete. There is no metal in the system to corrode and unless exposed to long term, high concentrations of hydrogen sulfides, which is again unlikely, there is nothing to cause any decomposition or deterioration of the system. I realize that Tri-lock has little case history in California since I only recently have introduced it on the West Coast. We do have, however, over 15 years of successful installations in the Gulf Coast region and Europe. I would be happy to provide any interested parties with even more references than I have already given.

5) Silt removal - You can calculate what silt build-up could occur, but at the design velocities anticipated here, you should have a self cleaning

channel. With the strength of the Tri-lock units, any rubber tired vehicle can be driven over the system. Even track vehicles can be used with care, although some damage may occur to corners. If Orange County assumes responsibility for silt removal, there is no cost to the city.

6) Vegetation maintenance - If the area surrounding the Tri-lock channel becomes a golf course and/or park, I assume that the surrounding vegetation is to be maintained anyway. The channel area maintenance for bermuda grass, for example, would be minimal as it would only have to be cut about three or four times a year, which should only cost about $400.00/year. Even if a box culvert were installed, the area above the box would still need to be maintained.

So, as you can see, there are few, if any, future costs that could be anticipated with the Tri-lock system. After extensively exploring every conceivable option for this area, it keeps coming back to Tri-lock being the most effective, efficient and economical erosion control system to use in this situation.

If you, or anyone else involved in this issue can think of any other concerns that I have failed to address, please advise me accordingly.

I hope that this helps to clarify any questions and if I can be of additional assistance, please feel free to contact me.

Sincerely,

Robert A. Cranston

Robert A. Cranston, Vice President
General Manager

RAC:nlw

Encl.

TRI-LOCK PROJECT SUMMARY

Project/ Location	Engineer	Quantity	Approximate Start Date	Secured P.O.	Quoted Price	Contract Value
Lake Powell Nat. Ariz.	Parks Ser.	34,000 sf	Complete	Yes	Delivered $2.50/sf	$ 85,000
Lux Canyon, Encinitas Ca.	E.F. Cook & Assoc. S.D.	792 sf	Complete	Yes	$2.00/sf + tax + freight	$ 1,584
Lux, Phase II	"	200,000 sf	As Developed	No	$2.00/sf	$400,000
Carmel Valley Golf Course	Creegan & D'Angelo Monterey	16,000 sf	Complete	Yes	$2.00/sf + tax + freight	$ 32,000
" Phase II	"	40,000 sf	1985	By Spec;	$2.25/sf + tax + freight	$ 90,000
Lopez Canyon S.D., Ca.	VTN Engr.	16,000 sf	Complete	Yes	$2.00/sf + tax + freight	$ 32,000
Rosamond, Mohave Desert Ca.	L.A. Water & Power	7,700 sf.	Complete	Yes	$2.38 Delivered	$ 18,326
Solana Beach, Ca.	Woodward - Clyde Consul.	392 sf	Complete	Yes	$2.00/sf + tax + freight	$ 784
Ukiah, Ca.	Bureau of Land Mgmt.	1,468 sf	8/84	Yes	$2.25/sf + tax, + ft.	$ 3,303

TRI-LOCK SUMMARY PAGE 2

Project/ Location	Engineer	Quantity	Approximate Start Date	P.O. Secured	Quoted Price	Contract Value
Redding, Ca.	Bureau of Land Mgmt.	1,468 sf	8/84	Yes	$2.25/sf + tax, +=ft.	$ 3,303
Humboldt Bay, Ca.	BLM	20,000 sf	9/84	Has not bid yet	$2.50/sf Delivered	$ 30,000
Bonita Rd. Crossing Bonita,Ca.	VTN	8,000 sf	7/84	Guaranteed By Spec.	$2.25/sf + tax & frt.	$ 18,000
Forster Ranch, San Clemente	Madole & Assoc. Santa Ana	15,000 sf	7/84	YES Guaranteed By Spec.	$2.25/sf + tax + freight	$ 26,325
Honey Springs Jamul, Ca.	Graves Engr.	± 100,000 sf	10/84	In Final Design	$2.00/sf + tax + freight	± $200,000
Salt Crk. Channel Hemet, Ca.	RGB Engr. Costa Mesa	98,000 sf	Any-time	Tract for Sale	$2.00/sf + tax + freight	$196,000
Estrella Golf Cse. San Clem.	Madole & Assoc. Santa Ana	415,000 sf	4/85	Guaranteed By Spec.	$2.50/sf Installed	$1,037,500
Tecolote Canyon S.D., CA.	Woodward - Clyde Assoc.	160,000 sf	7/84	Alternate in Spec.	$2.75/sf Installed	$440,000
Hollister Dam Hollister Ca.	Bureau of Reclam-ation	300,000 sf	9/84	Has not bid yet	$2.00/sf + tax + freight	$600,000

TRI-LOCK SUMMARY PAGE 3

Project/ Location	Engineer	Quantity	Approximate Start Date	P.O. Secured	Quoted Price	Contract Value
Vista, Ca. Breeze Hill	James S. Murk, Engrs. Carlsbad,Ca.	43,000 sf	7/84	Yes	$ 2.25/sf + tax & frt.	$ 96,750
Vista, Ca. Emerald Est.	Christiansen Assoc. San Juan Cap.	26,000 sf	7/84	Yes	$ 2.25/sf + tax & frt.	$ 58,500
Vista, Ca. Vista Brooks	4 Design Carlsbad	40,000 sf	8/84	in final design	$ 2.25/sf + tax & frt.	$ 90,000
Vista, Ca. Shadowridge	CM Engr. Vista	16,000 sf	8/84	in final design	$ 2.25/sf + tax & frt.	$ 36,000
Cardiff, Mozart Condos	Woodward - Clyde San Diego	18,000 sf	8/84	in final design	$ 2.25/sf + tax & frt.	$ 40,500

TC425R&2R8 1983c.1 PERMIT

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY • SAN JOSE, CALIFORNIA 95118 • (408) 265-2600

Stream Ruby Creek

Date Issued 10/13/82

Permit No. 82430

Permittee

Kauffman & Broad
6379 Clark Avenue
Dublin, California
Attention Mr. Rob Miller

Telephone 415-829-4500

File Permits, East Zone
Ruby Creek
Tully Rd. Extension & Klein Rd.

Re: Creek & Retention Basin
Construction (Tract 6377)
82A606, 82P606

ROUND FILE 4-133

Applicant: IMH, Inc.
Consulting Civil Engineers
Attention Mr. James Harper

Purpose of Permit
- [x] Encroachment
- [x] Construction
- [ ] Temporary

1) Placement of Ruby Creek in cast in place pipe or concrete pipe and installation of appurtenances and inlet and outlet transitions. 2) Construct sedimentation facility and appurtenances. 3) Installation of fencing and guardrails. 4) Install landscaping in sedimentation control facilities.

Construction Expiration Date 4/13/84 Encroachment Expiration Date

PERMITTEE MUST NOTIFY:

- [x] DISTRICT'S CONSTRUCTION DIVISION, TELEPHONE 265-2600, X324
- [ ] ~~SANTA CLARA COUNTY TRANSPORTATION AGENCY, TELEPHONE 299-2501~~

AT LEAST TWO NORMAL WORKING DAYS BEFORE STARTING ANY WORK UNDER THIS PERMIT. FAILURE TO NOTIFY IS CAUSE FOR REVOCATION OF PERMIT AND REMOVAL OF WORK. EXERCISE OF THIS PERMIT SHALL INDICATE ACCEPTANCE OF AND AGREEMENT TO COMPLY WITH ALL PROVISIONS INCLUDED HEREIN. THIS PERMIT IS SUBJECT TO THE PROVISIONS LISTED ON THE REVERSE SIDE HEREOF EXCEPT AS EXPRESSLY MODIFIED IN THE ADDITIONAL PROVISIONS LISTED BELOW. VIOLATION OF ANY PROVISION SHALL BE CAUSE FOR IMMEDIATE REVOCATION OF PERMIT.

1. PERMITTEE MUST MAINTAIN A COPY OF THIS PERMIT AND APPROVED PLANS ON JOB SITE FOR DURATION OF CONSTRUCTION PERIOD.
2. All work shall be constructed in accordance with approved plans and to the satisfaction of the District's Inspector. The work area must restored to the satisfaction of the District's Inspector.
3. The quality of water passing through or below the site shall be maintained at all times and the addition of silt or other deleterious material to the water will not be permitted.
4. All backfill within District right of way shall be compacted to at least 90% relative compaction in accordance with California Test Method 216.
5. Obstructions to the existing waterway between October 15 and April 15 will not be allowed except by special permit to be applied for at least 15 days in advance and requiring District approval of detailed plans and provisions for emergency flows.
6. This permit replaces Permit 81408 issued to permittee on March 17, 1981 and which expired on September 17, 1982.

(Continued)

cc: D. Kent Dewell, Director of Public Works
City of San Jose
Hydraulics Division, City of San Jose
Attention D. M. Uyeda
Bob Kenton, Design & Construction Division
City of San Jose
Bill Fisher, Ruth & Going, Inc.
Engineering Services Division, City of San Jose
Attention Joe Henderson
J. Hall; D. Erling; J. Sutcliffe; R. Smith;
B. Burger; A. Codiroli; E. Sullivan RAL:bp

Approval

DIVISION ENGINEER
DESIGN COORDINATION DIVISION

FC-60 (7-1-75)

7. During any cast-in-place construction operations, a full time inspector must be present to monitor quality control of pipe. The inspector should perform standard concrete tests and wall thickness measurements as required by the specifications and keep construction and testing records. A weekly report detailing the progress of work and results of test cylinders and measurements should be sent to Santa Clara Valley Water District in care of Mr. Harvey Passanisi, 5750 Almaden Expressway, San Jose, California 95118. This inspection is to be provided by the independent consulting engineer or the City of San Jose at the contractor's expense.

8. No obstruction to the existing waterway can be allowed between October 15 and April 15 of any year.

9. Under terms of this Permit, Permittee is to design and award a contract for stated improvements to Ruby Creek and, upon completion of these facilities, will convey title in them to the District. It is appropriate to set forth the respective functions that will be performed by Permittee and District during the construction phase.

   In order for Permittee to maintain control of the contract, it is typical that they would perform the contract administration and resident engineering functions necessary for the advertisement, award, construction and acceptance of the project. Examples of such duties include: obtaining necessary permits, conducting prejob conferences, review submittals such as insurance and shop drawings, performing continuous inspections, field staking and materials testing, evaluate proposals for substitutions and extra work and obtaining District's approval for same, estimating quantities for and making progress payments, and the determination of final contract quantities and making final payment to the contractor.

   District's role will be limited to such periodic field inspection, review of test results, and designation of additional materials and quality assurance testing it considers necessary to insure physical compliance with the plans and specifications. This will allow District staff to independently recommend acceptance of the completed facilities to our Board of Directors.

   The Permittee is to provide the District with one copy of test reports and certificates of compliance for all items covered in Permit.

   Should our inspector note the contractor performing work which is considered to be defective, he will immediately inform Permittee's Field Representative as to the particulars in order that the Field Representative may promply resolve the matter. Although the Field Representative may, in some instances, want to obtain District's concurrence prior to issuing a stop notice or reject work, it is understood that such direction to the contractor will only be given by the Permittee's Field Representative.

   Please furnish the name or names of those persons that will be performing administration and resident engineering services for Permittee as outlined above. As for District's representative during the construction phase, all correspondence should be directed to: Harvey Passanisi, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118, phone (408) 265-2600, extension 323.

10. There shall be no work in the sedimentation control facility area or disturbance of the existing Ruby Creek channel until all right of way has been acquired or an order for immediate possession obtained for the property in the sedimentation area. The District will be indemnified, defended and held harmless on account of any damages resulting in any way from construction activities associated herewith.

11. If a potentially active fault is found during site grading, the District reserves the right to modify the design of the facility, if necessary, to accommodate any such hazard.

12. All landscaping in sedimentation control facility shall be maintained by Permittee for a 2-year period after completion of facility and initial planting. Supplemental watering shall be carried out by Permittee if natural rainfall is insufficient to establish ground cover for the first season. NOTE: Maintenance of landscaped area shall include replacement of vandalized plants or rodent damage during maintenance period.

APR 27, 1984 Ruby Cr Sediment Basin looking downstream from Klien Rd at waterline crossing

Apr 27, 1984 Ruby Cr waterline crossing at Sediment Basin

APR 27, 1984 Ruby Cr Sediment Basin looking upstream

Apr 27, 1984 Ruby Cr Sediment Basin

Get letter
from Kaufman
& Broads

Testing Engineers
responsibility & duties

S/W B. Carlson
how we acquired

Paragraph 29

Pipe - 4" Stl., Sch. 40, ASTM _____

Coating &
Wrap - type, thickness,
ASTM or AWWA No.

Lining - thickness & type

Type of welded joint -
butt strap or butt weld

RECEIVED
JUN 02 1983
KYLIE, BLUNT, McBRIDE & JENSEN

NOT TO BE PUBLISHED
IN OFFICIAL REPORTS

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT, DIVISION THREE

FILED
MAY 31 1983
Court of Appeal - First Dist.
CLIFFORD C. PORTER, Clerk
By _____ DEPUTY

SANTA CLARA VALLEY WATER DISTRICT,

Plaintiff and Respondent,

v.

KENNETH H. and HAZEL HALL et al.,

Defendants and Appellants.

A013263

1 Civ. No. 53544

(Super. Ct. No. 471150)

Defendants Kenneth and Hazel Hall appeal from a judgment condemning .063 acres of their five-acre residential lot for use in the Ruby Creek Flood Control Project. The development plan encompassing the sediment-retention dam involved in this lawsuit was approved by the City of San Jose in 1978, following preparation of an environmental impact report. In 1980 property owners, including appellants, appeared before the Board of Directors of the Santa Clara Valley Water District (hereafter District) and voiced objections to the proposed location of the sedimentation basin. After two public meetings at which appellants appeared, the District tentatively approved the location. Subsequently, the District entered into a contract with the developer of a nearby subdivision requiring the developer to acquire land and construct the sedimentation basin at a site to be determined by the District.

In 1981, after unsuccessful purchase attempts by the developer, the District held duly-noticed public hearings to

discuss adoption of a resolution of necessity for condemnation of the portion of appellants' property needed for the project. Appellants appeared with counsel at a public meeting on February 24, 1981. After extensive hearing the matter was continued to March 10, 1981, in order to obtain additional information. By a vote of 5-2 the board adopted a resolution of necessity declaring that the public interest and necessity require the acquisition, the taking is for a public use, the property is necessary for the public use, and the project is planned in a manner compatible with the greatest public good and least private injury.

On March 27, 1981, the District filed this action in eminent domain. At trial, appellants raised seven affirmative defenses. The trial court found the District's resolution of necessity was supported by substantial evidence and that the board's action was not a gross abuse of discretion. The elements of the resolution, therefore, were conclusively established (Code Civ. Proc., §§ 1240.030, 1245.250), and the only permissible grounds for objection to the taking were those enumerated in Code of Civil Procedure section 1250.360.[1/] The court rejected five of appellants' affirmative defenses as not properly within section 1250.360 and rejected the remaining two claims on the merits.

---

1. Code of Civil Procedure section 1250.360 provides, in pertinent part: "Grounds for objection to the right to take, regardless of whether the plaintiff has adopted a resolution of necessity . . . include:

". . . . . .

"(b) The stated purpose is not a public use.

". . . . . ."

After a separate hearing to determine value of the property taken, a judgment in condemnation was entered on December 9, 1981, setting just compensation at $3,000. From this judgment defendants appeal.

Appellants' first contention on appeal is that the trial court erred in refusing to hear their claim that the property was not to be used for a public purpose. Appellants cite Code of Civil Procedure section 1250.360, subdivision (b), as authorizing their objection that the taking "serves the exclusive purpose of increasing the private profit of Kaufman and Broad, Inc." We disagree.

The enumerated grounds for objection to the taking include where "[t]he stated purpose [in the resolution of necessity] is not a public use." (Code Civ. Proc., § 1250.360, subd. (b), emphasis added.) The trial court properly held that appellants' objection did not come within the "stated purpose" objection. Appellants admit the stated purpose (i.e., flood control) is "a public use for which the power of eminent domain may ordinarily be exercised . . . ." Appellants do not object to the stated purpose, but assert only an abuse of discretion under Code of Civil Procedure section 1245.255. As such, it was properly rejected by the trial court.

Next, appellants contend that the statutory provision relied upon by the trial court to conclusively establish the elements of the resolution of necessity violates California's constitutional guarantee of independent judicial review. (See Cal. Const., art. VI, § 1.) Therefore, they claim the trial

court improperly refused to consider their objections to the findings of the resolution of necessity. Appellants cite Strumsky v. San Diego County Employees Retirement Assn. (1974) 11 Cal.3d 28, for the proposition that local agencies (such as the District) have no judicial power and are subject to independent judicial review whenever they make adjudicatory decisions affecting fundamental vested rights. Appellants would require the trial court to "exercise its independent judgment on the evidence and find an abuse of discretion if the findings are not supported by the weight of the evidence." (Id., at p. 32.)

We find the trial court properly found there was no gross abuse of discretion within Code of Civil Procedure section 1245.255 since the resolution was supported by substantial evidence on the record considered as a whole. The Strumsky independent review requirement for adjudicatory decisions of local agencies is not relevant here. It has long been held that "[w]hen the use is public, the necessity of appropriating any particular property therefor is not a subject of judicial cognizance, but one which appertains to the legislative branch . . . ." (County of Los Angeles v. Rindge Co. (1921) 53 Cal.App. 166, 172.) Such legislative determinations are conclusive. (City of Oakland v. Parker (1924) 70 Cal.App. 295, 298.) The District's legislative determination, here, is subject only to the substantial evidence test.

Here, substantial evidence supports the District's resolution of necessity. The record indicates that the District held several hearings and examined numerous exhibits. The

evidence indicated the basin would prevent sheet flooding in the area. The site selected was found to "function adequately from an engineering and technical standpoint." Nothing in the evidence contradicted these findings. It was proper, therefore, for the trial court to find the resolution of necessity was supported by substantial evidence.

Next, appellants contend that the failure to notify them prior to approval of a subdivision map affecting an area which encompassed an alternative location for the basin deprived them of due process of law. The approval by the City of San Jose, they claim, denied them a realistic opportunity to defend their interests.

They rely on the holding of Conejo Recreation & Park Dist. v. Armstrong (1981) 114 Cal.App.3d 1016, that property owners were entitled to receive notice prior to the board of supervisors adopting a resolution authorizing the recreation district to hold condemnation hearings. This is an entirely different situation. Here, the District's action was entirely independent of the city's map approval.

Appellants admit that notice of the public hearings regarding the resolution of necessity was given as required by Code of Civil Procedure section 1245.235. In fact, appellants appeared and participated at meetings held to determine the location of the project. Finally, appellants admit that the action of the City of San Jose in approving the tentative subdivision map was not binding on the District, and, consequently, the lack of notice could not affect appellants' due process rights.

Appellants also claim a due process violation because the District was not an impartial and disinterested tribunal. They claim the contract with Kaufman and Broad requiring that the completed sedimentation basin be deeded to the District gave the District an impermissible interest in taking appellants' land. However, the terms of the contract do not support this contention. The contract did not require building the basin on a specific site, but called for construction in strict accordance with District-approved plans. Any interest held by the District would have been equally satisfied no matter where the basin was positioned. Therefore, the District remained an impartial and disinterested tribunal.

Appellants also raise here the District's refusal to prepare an environmental impact report and a claim that the District arbitrarily exercised its power based upon the cost exceeding projected savings due to the project. The trial court properly excluded both of these contentions as not permitted under Code of Civil Procedure section 1250.360. Appellants fail to demonstrate how these objections might properly be raised here. Accordingly, we reject these arguments.

Finally, appellants claim the trial court erred in excluding defense evidence as to the value of the property taken. The proposed testimony determined fair market value of the property taken using a pro-rata share of the additional profit expected by Kaufman and Broad because the basin was not located on an alternative site which would have reduced the size of a proposed residential development. The trial court properly excluded

this testimony because the "fair market value of the property taken shall not include any increase or decrease in the value of the property that is attributable to . . . [t]he project for which the property is taken." (Code Civ. Proc., § 1263.330.) To allow fair market value to be based upon the effect of the project upon the value of other property would be to indirectly allow a change in value of the condemned property due to the project to be taken into account. The trial court, therefore, properly excluded appellants' valuation testimony.

Accordingly, we affirm the judgment.

Scott, J.

We concur:

White, P.J.

Barry-Deal, J.

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (07-08-81)

No.	Name	Initial	1981	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GARRETT				
	GILL				
	HENLEY				
	KORBAY				
	WILSON				

No.	Name	Initial	1981	Code	No.	Name	Initial	1981	Code	No.	Name	Initial	1981	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Francis					Central Files			
	Flores					Finance					Library			
	Holley					Bundy					Lowrance			
	Melton					Fujita					Marovich			
	Personnel					Simons								
						Smith								
	GARRETT					KORBAY					GILL			
	Kriege					Burger					Cotton			
	Bramblett					Carlsen					Cournoyer			
	Erling					Hall					Dean			
	Pardini So.Co. Office					Lawrie					Donnell			
	Regadanz					McNeely					Ferguson			
	Sanchez					Richardson								
	Sutcliffe					Talley								
						Wilson, (Bruce)								

Action Codes:
A. Rush
B. Contact Me
C. Follow Up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare Response
L. Coordinate

Remarks:

NOTE: ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

10/27 hand del SAE w/A
JLR w/A (3) CGW "
JTD " GSK "
ATH "

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS):	TELEPHONE NO.:	FOR COURT USE ONLY
TICHININ AND MITCHELL 17575 Monterey Road Morgan Hill, CA 95037 ATTORNEY FOR (NAME): Defendants	(408) 779-9194	SANTA CLARA VALLEY WATER DISTRICT '81 OCT 27 PM 2:26
Insert name of court, judicial district or branch court, if any, and post office and street address. SUPERIOR COURT of CALIFORNIA, COUNTY of SANTA CLARA 191 NORTH FIRST STREET SAN JOSE, CA 95113		
PLAINTIFF: SANTA CLARA VALLEY WATER DISTRICT		
DEFENDANT: KENNETH H. HALL, et.al.		
CIVIL SUBPENA ☐ COURT ☒ DEPOSITION ☒ DUCES TECUM ☐ OTHER (specify):		CASE NUMBER: 471150

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (NAME):
JOHN RICHARDSON

1. **YOU ARE ORDERED TO APPEAR AS A WITNESS in this action as follows unless you make a special agreement with the person named in item 3:**

   a. Date: October 29, 1981 Time: 10:00 a.m. ☐ Dept.: ☐ Div.: ☐ Room:
   b. Address: 17575 Monterey Street, Morgan Hill, CA 95037

2. and you are
   a. ☐ ordered to appear in person.
   b. ☐ not required to appear in person if you produce the records described in the accompanying affidavit in compliance with Evidence Code sections 1560 and 1561.
   c. ☒ ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpena. The procedure authorized pursuant to subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpena.
   d. ☐ ordered to designate one or more persons to testify on your behalf as to the matters described in the accompanying statement. (Code of Civil Procedure 2019(a)(6))
3. **IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE ATTORNEY REQUESTING THIS SUBPENA, NAMED ABOVE, OR THE FOLLOWING PERSON, BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:**

   a. Name: Bruce Tichinin b. Telephone number: (408) 779-9194
4. **WITNESS FEES:** You are entitled to receive witness fees and mileage actually traveled, one way, as provided by law, if you request them **BEFORE** your scheduled appearance. **Request them from the person named in item 3.**
5. If this subpena requires your attendance at proceedings out of court and you refuse to answer questions or sign as required by law, you must attend a court hearing at a time to be fixed by the person conducting such proceedings.
6. You are ordered to appear in this civil matter in your capacity as a peace officer or other person described in Government Code section 68097.1.

   Date: Clerk of the Court, by _____, Deputy

DISOBEDIENCE OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

For Court Use Only
SUPERIOR COURT SANTA CLARA CO. CALIF.

Dated: October 26, 1981

(Signature of person issuing subpena)

John Kazubowski
(Type or print name)

County Clerk
(Title)

(See reverse for proof of service)

Form Adopted by Rule 982
Judicial Council of California

CIVIL SUBPENA

PROOF OF SERVICE OF CIVIL SUBPENA

1. I served this ☐ subpena ☐ subpena duces tecum and supporting affidavit by delivering a copy personally to the person served as follows:

SANTA CLARA
VALLEY WATER DISTRICT

'81 OCT 27 PM 2:24

   a. Person served (name):

   b. Address where served:

   c. Date of delivery:
   d. Time of delivery:
   e. Witness fees *(check one)*

      (1) ☐ were offered or demanded and paid. Amount: $ _____

      (2) ☐ were not demanded or paid.

   f. Fees for service . . . . . $ _____

2. I received this subpena for service on (date):

3. Person serving

   a. ☐ Not a registered California process server.
   b. ☐ Registered California process server.
   c. ☐ Employee or independent contractor of a registered California process server.
   d. ☐ Exempt from registration under Bus. & Prof. Code 22350(b).
   e. ☐ California sheriff, marshal, or constable.
   f. Name, address and telephone number and if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (Date): . . . . . at (Place): . . . . . , California.

_____
(Signature)

(For California sheriff, marshal, or constable use only) I certify that the foregoing is true and correct and that this certificate is executed on (Date): . . . . . at (Place): . . . . . , California.

_____
(Signature)

A declaration under penalty of perjury must be signed in California or in a state that authorizes use of a declaration in place of an affidavit; otherwise an affidavit is required.

AFFIDAVIT RE SUBPENA DUCES TECUM
(CCP §1985)

1. The exact matters or things desired to be produced are: Listed in Exhibit A, attached hereto.

2. I am informed and believe that the witness John Richardson has the matters or things described in paragraph 1., supra, in his possession or under his control.

3. Good cause exists for the production of the matters and things described in paragraph 1., supra, and they are material to the issues involved in the case in that:

They relate to the benefit-cost analysis and engineering design of the sediment retention basin for which defendants' land is sought to be taken herein.

I, BRUCE TICHININ, declare that the foregoing is true of my own knowledge, except as to those matters stated upon information and belief, and as to those, I believe it to be true, and that this declaration is executed on October 26, 1981 at Morgan Hill, California.

Bruce Tichinin

BRUCE TICHININ

EXHIBIT A

1. The thirteen sheets of detailed construction drawings prepared by HMH, Inc. Engineers showing the nature and manner of the proposed construction of the sediment retention basin, heretofore lodged with this Court by defendants, and displayed before the Board of Directors of plaintiff SANTA CLARA VALLEY WATER DISTRICT at a condemnation hearing in this matter.

2. All engineer's reports, design data, construction drawings, benefit-cost analyses, correspondence or memoranda, to or from any source, relating to the current design and location of said sediment retention basin or to any other design or location of said sediment retention basin ever considered by any person or entity, known to any principal, agent or employee of plaintiff SANTA CLARA VALLEY WATER DISTRICT or HMH, INC., Engineers.

3. A photographic copy of a written, certified transcript of the administrative proceedings before plaintiff SANTA CLARA VALLEY WATER DISTRICT for each instance in which the topic of either the Proposed Improvements on Flint and Ruby Creeks, Zone E-1, Project No. 40048 and 40019, and their subsequent modifications, or the topic of defendants' real property were discussed before the Board of Directors of said plaintiff, and magnetic-tape copies of tape recordings taken by plaintiff of said proceedings.

4. The originals and a true copy of each and every document which plaintiff intends to introduce in this action.

LAW OFFICES OF
ICHININ & MITCHELL
7575 MONTEREY STREET
IORGAN HILL, CALIF. 95037
TELEPHONE
(408) 779-9194

TIMOTHY J. HANNAN, ESQ.
100 Bush Street, Suite 612
San Francisco, CA 94104
Telephone: (415) 433-7611

Attorney for Defendants and Cross-Complainants RICHARD A. BIBBY and PATRICIA C. BIBBY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

Ans due 10-23-81 Mc

SANTA CLARA VALLEY WATER DISTRICT, a Public Corporation, Plaintiff, v. RICHARD A. BIBBY, PATRICIA C. BIBBY, DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA, COUNTY OF SANTA CLARA, DOES I through XV, Defendants. AND RELATED CROSS-ACTION	No. 471149 INTERROGATORIES DIRECTED TO SANTA CLARA VALLEY WATER DISTRICT (C.C.P. §2030)

PROPOUNDING PARTY: Defendants and Cross-Complainants Richard and Patricia Bibby

RESPONDING PARTY: Plaintiff and Cross-Defendant Santa Clara Valley Water District

SET NO.: One

Defendants and Cross-complainants Richard and Patricia Bibby require that Plaintiff and Cross-defendant Santa Clara

Valley Water District answer, under oath, pursuant to Section 2030 of the Code of Civil Procedure, the following interrogatories:

1. Did you purchase any portion of a parcel of land owned by one Mrs. Jean Glick, which parcel adjoins the land owned by defendants Richard and Patricia Bibby as described in your complaint?

   If so, please state:

   (a) How many square feet you purchased from Mrs. Glick.

   (b) How much money you paid her in making such purchase.

   (c) Whether any portion of the money which you paid Mrs. Glick represents an amount in compensation for alteration of the southeasterly and southern view from her remaining property, and if so, how much such portion amounts to.

attach c.c. Final order w/ det-trip

Total fee purchased

2. Prior to your filing the complaint herein, did any members of your Board of Directors ever discuss or hear any discussion concerning Richard and Patricia Bibbys' pasturing or turning their horses out on any parcels of land which you were planning to use for the Ruby Creek sediment control facility? Objected to as vague & ambiguous & not relevant.

   If so, please state:

   (a) The date and approximate time when each such discussion or hearing took place.

   (b) The identity of each person who took part in each such discussion or hearing, including the name, title,

home and work address and the telephone number of each such person.

(c) As accurately as you can for each such discussion or hearing, what each person who did any speaking said.

3. Do you contend that the proposed project will not cause any substantial alteration to the southerly and southwesterly view from the Bibbys' remaining property after completion of the project? NO

If so, please state each fact upon which you base such contention.

4. Have you requested the City of San Jose to require Kaufman and Broad of Northern California, Inc., a California corporation, or its predecessor in interest, to construct those certain storm drain improvements commonly known as

the Ruby Creek Sediment Control Facility, including a sediment retention basin and a storm line running from the basin to Lake Cunningham? Yes

If so, please state:

(a) When you made such a request of the City of San Jose. It was implied in our letter of Jan 19, 1977

(b) Whether the City of San Jose has complied with your request; Yes

(c) Whether construction of the project has commenced, and if so, when ground was broken for such project, and Yes - ground broken on June 23, 1981

(d) When you expect construction of the project to be completed. Approx Sept 1, 1982

5. Did you grant an encroachment permit to Kaufman and Broad of Northern California, Inc. to construct the Ruby Creek Sediment Control Facility and appurtenances (permit No. 81408)?

If so, please state: Yes

(a) Whether Kaufman and Broad of Northern California, Inc. is to absorb the costs of such construction; Yes

(b) Whether you required Kaufman and Broad of Northern California, Inc. to submit plans for the construction of

said facility to you for approval prior to the commencement of construction; Yes

(c) Whether you have, in fact, approved plans prepared by Kaufman and Broad of Northern California, Inc. for the construction of said facility; and Yes

(d) Whether Kaufman and Broad of Northern California, Inc.'s work on said project must satisfy you (or some agent or employee of yours) before you will consider Kaufman and Broad to have met the conditions of Permit No. 81408. Yes

6. When the Ruby Creek Sediment Control Facility is completed, do you plan to:

(a) Have legal title to the land upon which the facility is located? Yes

(b) Exercise authority and control over the property comprising the facility? Yes

(c) Have responsibility for the operation and maintenance of the facility? Yes.

///

7. Is the proposed project to be constructed for the benefit of the public or some segment of the public which the Santa Clara Valley Water District is purposed to serve?

For the benefit of the public.

8. (a) Is Kaufman and Broad of Northern California, Inc. being required to construct the Ruby Creek Sediment Control Facility as a condition to its being allowed to develop Tracts 6377 and/or 6659 in the City of San Jose? GL

(b) If your answer to Interrogatory No. 8(a) is other than affirmative, please explain what, if anything, Kaufman and Broad is to receive from you and/or the City of San Jose in return for its construction of the Ruby Creek Sediment Control Facility. DNA

9. On or about May 14, 1981, did you or your attorney receive a communication from the attorney of record for the defendants and cross-complainants Richard and Patricia Bibby to the effect that the Bibbys were protesting the destruction of a fence used by the Bibbys, and the stripping of grass and other vegetation from the soil, of two parcels of land adjoining or adjacent to the Bibbys' own land? GLS.

10. (a) Did you or your attorney ever instruct defendants and cross-complainants Richard and Patricia Bibby, or their attorney of record, to seek compensation for the destruction of part of the Bibbys' fence from an officer, agent, or employee of Kaufman and Broad of Northern California, Inc.? no recollection of doing so.

(b) If so, please state why it was appropriate for Kaufman and Broad of Northern California, Inc. to assume a financial responsibility for such destruction. DNA.

11. Did you, or any agent or instrumentality of yours, give notice to defendants and cross-complainants Richard and Patricia Bibby that the steel-post wire fence on the land where the proposed project was to be located was going to be torn down? If so, please state:

(a) When such notice was given;

(b) By what medium such notice was given (e.g., mail, telephone, etc.); and

(c) Whether such notice was received by either Mr. or Mrs. Bibby.

12. Has any agreement been entered into by and between Santa Clara Valley Water District and Kaufman and Broad of Northern California, Inc. for the installation of the Ruby Creek Sediment Control Facility? If so, state:

(a) The date such agreement was entered into;

Only condemnation agreement

(b) Whether such agreement was oral or written;

(c) The person or persons who represented the Santa Clara Valley Water District and Kaufman and Broad, respectively, in entering into such agreement; and

(d) All the terms and provisions of such agreement.

Attach copy

13. Prior to the breaking of ground for construction of the Ruby Creek Sediment Control Facility, was there a steel-post fence in place on any parcels of land where said facility is to be located? If so, please state:

(a) For each such parcel of land, the name of the person(s) who owned the parcel immediately before either you or Kaufman and Broad of Northern California, Inc. took title to such parcel; and

(b) The name of the person(s) who erected the fence; and

(c) The name of the person(s) who owned the fence; and

(d) To what use or uses the fence was put during the year immediately prior to the breaking of ground.

14. Did Kaufman and Broad of Northern California, Inc. purchase certain land belonging to Mr. Walter Kampfen and/or his wife, which land was located adjacent to the land of Mrs. Jean Glick, for the purpose of constructing any portion of the Ruby Creek Sediment Control Facility? If so, please state:

(a) How many square feet Kaufman and Broad purchased from Kampfen, and

(b) How much money Kampfen was paid for such land.

Dated: September 21, 1981

Timothy J. Hannan, Esq.
Attorney for Defendants and Cross-complainants Richard and Patricia BIBBY

Carlsen

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

March 10, 1982

File: Permits, East Zone
Ruby Creek
Wly of Klein Road
Adjacent to Sediment Basin

Re: Water Pipeline Crossing for
Klein Homes Water Company
81A748, 81P748

Norman I. Book, Jr.
Carr, McClellan, Ingersoll,
Thompson & Horn
Attorneys at Law
Post Office Box 513
Burlingame, California 94010

Dear Mr. Book:

Re: Your Client, Klein Homes Water Company

I regret that it does not seem to have been made clear that the sediment control facility in Ruby Creek to which your inquiry of March 4 refers is a project of Kaufman and Broad and not of this District. Our interest in the work derives only from the fact that upon completion it will be devoted to public use in the ownership of this District. Until then matters such as the possible relocation of existing water lines in the area will be the responsibility and decision of the builder.

We will wish to be helpful to you and to the residents of the area but your discussions regarding accommodation of your client's line into the project should be undertaken directly with Kaufman and Broad.

Faithfully,

Albert Thomas Henley

Albert Thomas Henley
General Counsel

cc: Dave Corliss, Kaufman and Broad,
6379 Clark Avenue, Dublin, CA 94566

bc: W. F. Carlsen
D. A. Lawrie
E. H. Sullivan

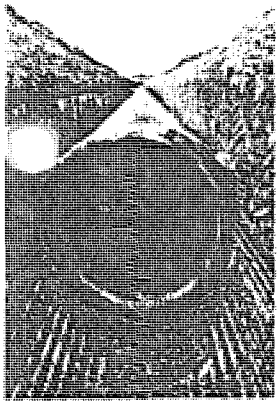
ATH:scs

Please return to

W. F. Carlsen

DEPONENT RICHARDSON
DEFT'S EXH # B
DATE 10-29-81
SUSAN T. DeMICHELE NP

Letters



W.M. LYNCH co.
CAST-IN-PLACE CONCRETE PIPE
6940 TREMONT ROAD, DIXON, CALIFORNIA 95620 • (916) 753-7700 • TELEX: 37-7372
1621 LA MIRADA DRIVE, SAN MARCOS, CALIFORNIA 92069 • (714) 744-3370

November 4, 1983

SANTA CLARA VALLEY WATER DISTRICT
5750 Almaden Expressway
San Jose, CA 95118

ATTN: William F. Carlsen
Division Engineer

O.K. W. F. Carlsen S.C.V.W.D. 19 Apr 84

RE: Ruby Creek Storm Drain

Dear Mr. Carlsen:

Pursuant to our telephone conversation of November 3, 1983, it was agreed that the extra half inch of wall thickness on the Cast-In-Place Pipe would only be necessary from the invert to the spring line of the pipe. The backfill in the Cast-In-Place Pipe; the specs read, "after the pipe attains suitable strength the trench shall be backfilled." The Standard Specifications for Public Works Construction of Southern California (which is referred to in Paragraph 16.b.1) states, "backfilling will not be permitted over Cast-In-Place Concrete Pipe until the concrete obtains at least the strength specified on the plans or in the special provisions." It has been the practice of the Cast-In-Place Pipe Industry and has been our method for many years to start backfill and compaction after the concrete cylinders have reached a psi of 2,000 lbs. Bear in mind that we would certainly not make any recommendations for early backfill if it would in any way be detramental to the pipe.

Listed below are a few of the agencies that allow the above procedure:

Sonoma County Flood Control
Sacramento County Water Resources
Contra Costa County Flood Control
Fresno Metropolitan Flood Control District

If further information is needed please feel free to contact us.

Sincerely,

W. M. LYNCH CO.

L. G. "Muggs" Schroeder
Executive Vice-President

LGS/pw

sent Oct 16, 1981

ANSWERS TO INTERROGATORIES

RE: DISTRICT VS. RICHARD A. BIBBY, ET AL

by W. F. Carlsen

Question 4 - Yes.

a) It was implied in our letter of January 19, 1977.

b) Yes.

c) Yes, ground broken on June 23, 1981.

d) Approximately September 1, 1982.

Question 5 - Yes.

a) Yes.

b) Yes.

c) Yes.

d) Yes.

Question 12 - The acquisition and condemnation agreement only, agreement attached.

Please type final and return to Bill Carlson

home and work address and the telephone number of each such person.

(c) As accurately as you can for each such discussion or hearing, what each person who did any speaking said.

Regarding Interrogatories directed to Santa Clara Valley Water District from:

TIMOTHY J. HANNAN, ESQ.
100 Bush Street, Suite 612
San Francisco, CA 94104
Telephone: (415) 433-7611

Attorney for Defendants and Cross-Complainants RICHARD A. BIBBY and PATRICIA C. BIBBY

3. Do you contend that the proposed project will not cause any substantial alteration to the southerly and southwesterly view from the Bibbys' remaining property after completion of the project? NO

If so, please state each fact upon which you base such contention.

Interrogatories directed to Santa Clara Valley Water Dist.

Answers to Interrogatories 4, 5 & 12 by W.F. Carlson

Interrogatory 4

Have you requested the City of San Jose to require Kaufman and Broad of Northern California, Inc., a California corporation, or its predecessor in interest, to construct those certain storm drain improvements commonly known as

the Ruby Creek Sediment Control Facility, including a sediment retention basin and a storm line running from the basin to Lake Cunningham? Ans. Yes

If so, please state:

(a) When you made such a request of the City of San Jose. Ans. It was implied in our letter of Jan 19, 1977

(b) Whether the City of San Jose has complied with your request; Ans. Yes

(c) Whether construction of the project has commenced, and if so, when ground was broken for such project, and Ans. Yes - ground broken on June 23, 1981

(d) When you expect construction of the project to be completed. Ans. Approx Sept 1, 1982

Interrogatory 5

6. Did you grant an encroachment permit to Kaufman and Broad of Northern California, Inc. to construct the Ruby Creek Sediment Control Facility and appurtenances (permit No. 81408)?

If so, please state: Ans. Yes

(a) Whether Kaufman and Broad of Northern California, Inc. is to absorb the costs of such construction; Ans. Yes

(b) Whether you required Kaufman and Broad of Northern California, Inc. to submit plans for the construction of

said facility to you for approval prior to the commencement of construction; Ans. Yes

(c) Whether you have, in fact, approved plans prepared by Kaufman and Broad of Northern California, Inc. for the construction of said facility; and Ans. Yes

(d) Whether Kaufman and Broad of Northern California, Inc.'s work on said project must satisfy you (or some agent or employee of yours) before you will consider Kaufman and Broad to have met the conditions of Permit No. 81408.

Ans. Yes

6. When the Ruby Creek Sediment Control Facility is completed, do you plan to:

(a) Have legal title to the land upon which the facility is located? yes

(b) Exercise authority and control over the property comprising the facility? yes

(c) Have responsibility for the operation and maintenance of the facility? yes.

///

Interrogatory 12

12. Has any agreement been entered into by and between Santa Clara Valley Water District and Kaufman and Broad of Northern California, Inc. for the installation of the Ruby Creek Sediment Control Facility? If so, state:

Ans. Only condemnation agreement

(a) The date such agreement was entered into;

~~Only condemnation agreement~~

(b) Whether such agreement was oral or written;

(c) The person or persons who represented the Santa Clara Valley Water District and Kaufman and Broad, respectively, in entering into such agreement; and

(d) All the terms and provisions of such agreement.

— agg & kdmy age

age — ale

13. Prior to the breaking of ground for construction of the Ruby Creek Sediment Control Facility, was there a steel-post fence in place on any parcels of land where said facility is to be located? If so, please state:

(a) For each such parcel of land, the name of the person(s) who owned the parcel immediately before either you or Kaufman and Broad of Northern California, Inc. took title to such parcel; and

(b) The name of the person(s) who erected the fence; and

(c) The name of the person(s) who owned the fence; and

(d) To what use or uses the fence was put during the year immediately prior to the breaking of ground.

File: Permits, East Zone
Ruby Creek
Wly of Klein Road
Adjacent to Sediment Basin

Re: Water Pipeline Crossing for
Klein Homes Water Company
81A748, 81P748

September 28, 1981

Mr. Dave Corliss
Kauffman and Broad
6379 Clark Avenue
Dublin, California 94566

Dear Mr. Corliss:

Subject: Ruby Creek - Klein Homes Water Company

We are enclosing a copy of a letter dated September 3, 1981 from Carr, McClellan, Ingersoll, Thompson, and Horn regarding an existing pipeline crossing of the Ruby Creek sedimentation basin.

This pipeline should either be removed from the sedimentation basin or relocated under the basin, as it would block our maintenance equipment.

Please advise how this matter is to be handled so we can amend the permit. If it is to be relocated under the basin, we will need to review a detailed plan.

Yours very truly,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Enclosure: Letter of September 3, 1981

cc: Mr. Jim Harper, HMH, Inc. , 1353 Oakland Road, San Jose, CA 95112
Mr. Norman I. Book
Carr, McClellan, Ingersoll, Thompson & Horn, P.O. Box 513, Burlingame, CA 94010
Mr. and Mrs. Warren Pribble
Klein Homes Water Company , 201 Burlington Drive, Ukiah, CA 95482

J. L. Richardson
W. F. Carlsen
D. A. Lawrie
A. C. Codiroli
E. H. Sullivan

WFC:nn

Sept 2, 1997

Helen Hansen
Water Co
Wilma Pribyl
707-462-4134

re water line
here read new
fax

Don O'Keefe
K. & B
Dublin Calif. 94566
6379 Clark Ave

415-829-4500

<u>address</u> - Klein Homes Water Co
201 Burlington Drive
Ukiah 95482

Suggested she contact K & B and realize who is to pay for water line relocation but it ~~has~~ cannot stay in place - should be under lawn - at least 18" per DE.

UKE 3 Sept 81

Chuck Cody
651-6020

Advise when condensation is settled

OFFICE OF
CITY ATTORNEY
CITY OF SAN JOSE

ROBERT J. LOGAN
CITY ATTORNEY

151 WEST MISSION STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4454

August 14, 1981

Albert T. Henley, Esq.
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Dear Mr. Henley:

This is to confirm our conversation of August 14, 1981 with regard to the Kaufman and Broad project at Tully Road and Ruby Avenue.

The original tentative Maps (No. T 77-11-216 and T 78-1-7) expired because no Final Map was filed within the statutory time limits. (Government Code §66452.6; San Jose Municipal Code §19.16.020). Therefore, the above cited Maps cease to have any force, effect or approval from the City of San Jose.

These Maps were refiled on July 15, 1981 as T81-7-111 and T 81-7-110. The application of the Maps is currently pending. There will be a hearing in the near future and the determination to approve or disapprove these Maps will be made de novo.

Sincerely,

ROBERT J. LOGAN
City Attorney

By Joan R. Gallo
JOAN R. GALLO
Sr. Deputy City Attorney

JRG:hs

cc: Bruce Tichinin

80 1 13 PM '81

Dave Carliss of Kaufman & Broad advises that this happened through an oversight of their Engineer and dont believe it will have a serious effect on their schedule. They plan to install the 48" culvert before Oct 15 and perhaps do some minor work in the sediment basin. The pipe work will not be started until next spring. Bill C 18 Aug 81

Santa Clara Valley Water District 5750 ALMADEN EXPRESSWAY • SAN JOSE, CALIFORNIA 95118 • (408) 265-2600

Stream Ruby Creek | Date Issued 3/17/81 | Permit No. 81408

Permittee
Kauffman & Broad
6379 Clark Avenue
Dublin, California 94566
Attention Mr. Rob Miller

Telephone 829-4500

File
Permits, East Zone
Ruby Creek
Tully Road Extension & Klein Rd.

Re: Creek & Retention Basin Construction
(Tract 6377)
81A10, 81P10

Applicant: HMH, Inc.
Consulting Civil Engineers
Attention Mr. James Harper

Purpose of Permit
- [ ] Encroachment
- [x] Construction
- [x] Temporary

1) Placement of Ruby Creek in concrete pipe and installation of appurtenances and inlet and outlet transitions. 2) Construct sedimentation facility and appurtenances. 3) Installation of fencing and guardrails. 4) Install landscaping in sedimentation control facility.

Construction Expiration Date ~~September 17, 1982~~ Encroachment Expiration Date _____

PERMITTEE MUST NOTIFY:

[x] DISTRICT'S CONSTRUCTION DIVISION, TELEPHONE 265-2600 EXTENSION 324

[x] SANTA CLARA COUNTY TRANSPORTATION AGENCY, TELEPHONE 299-2400

AT LEAST TWO NORMAL WORKING DAYS BEFORE STARTING ANY WORK UNDER THIS PERMIT. FAILURE TO NOTIFY IS CAUSE FOR REVOCATION OF PERMIT AND REMOVAL OF WORK. EXERCISE OF THIS PERMIT SHALL INDICATE ACCEPTANCE OF AND AGREEMENT TO COMPLY WITH ALL PROVISIONS INCLUDED HEREIN. THIS PERMIT IS SUBJECT TO THE PROVISIONS LISTED ON THE REVERSE SIDE HEREOF EXCEPT AS EXPRESSLY MODIFIED IN THE ADDITIONAL PROVISIONS LISTED BELOW. VIOLATION OF ANY PROVISION SHALL BE CAUSE FOR IMMEDIATE REVOCATION OF PERMIT.

1. PERMITTEE MUST MAINTAIN A COPY OF THIS PERMIT AND APPROVED PLANS ON JOB SITE FOR DURATION OF CONSTRUCTION PERIOD.
2. All work shall be constructed in accordance with approved plans and to the satisfaction of the District's Inspector. The work area must restored to the satisfaction of the District's Inspector.
3. The quality of water passing through or below the site shall be maintained at all times and the addition of silt or other deleterious material to the water will not be permitted.
4. All backfill within District right of way shall be compacted to at least 90% relative compaction in accordance with California Test Method 216.
5. Obstructions to the existing waterway between October 15 and April 15 will not be allowed except by special permit to be applied for at least 15 days in advance and requiring District approval of detailed plans and provisions for emergency flows.
6. During cast-in-place construction operations, a full time inspector must be present to monitor quality control of pipe. The inspector should perform standard concrete tests and wall thickness measurements as required by the specifications and keep construction and testing records. A weekly report detailing the progress of work and results of test cylinders and measurements should be sent to Santa Clara Valley Water District in care of Mr. Harvey Passanisi, 5750 Almaden Expressway, San Jose, California 95118. This inspection is to be provided by the independent consulting engineer at the contractor's expense.

cc: Hydraulics Division, City of San Jose
Attention D. M. Uyeda
Mr. Bob Kenton, Design & Construction Division
City of San Jose
Mr. Bill Fisher, Ruth & Going, Inc.
Engineering Services Division, City of San Jose
Attention Mr. Joe Henderson

John Hall, D. Erling, J. Sutcliffe, J. Richardson, B. Burger, A. Codiroli, E. Sullivan WFC:evr

Approval

ORIGINAL SIGNED BY

DIVISION ENGINEER
DESIGN COORDINATION DIVISION

FC-60 (7-1-75)

7. The storm drainage system is to be operational by October 15, 1981. No obstruction to the existing waterway between October 15 and April 15, 1982 will be allowed.

8. Under terms of this Permit, Permittee is to design and award a contract for stated improvements to Ruby Creek and, upon completion of these facilities, will convey title in them to the District. It is appropriate to set forth the respective functions that will be performed by Permittee and District during the construction phase.

   In order for Permittee to maintain control of the contract, it is typical that they would perform the contract administration and resident engineering functions necessary for the advertisement, award, construction and acceptance of the project. Examples of such duties include: obtaining necessary permits, conducting prejob conferences, review submittals such as insurance and shop drawings, performing continuous inspections, field staking and materials testing, evaluate proposals for substitutions and extra work and obtaining District's approval for same, estimating quantities for and making progress payments, and the determination of final contract quantities and making final payment to the contractor.

   District's role will be limited to such periodic field inspection, review of test results, and designation of additional materials and quality assurance testing it considers necessary to insure physical compliance with the plans and specifications. This will allow District staff to independently recommend acceptance of the completed facilities to our Board of Directors.

   The Permittee is to provide the District with one copy of test reports and certificates of compliance for all items covered in Permit.

   Should our inspector note the contractor performing work which is considered to be defective, he will immediately inform Permittee's Field Representative as to the particulars in order that the Field Representative may promptly resolve the matter. Although the Field Representative may, in some instances, want to obtain District's concurrence prior to issuing a stop notice or reject work, it is understood that such direction to the contractor will only be given by the Permittee's Field Representative.

   Please furnish the name or names of those persons that will be performing administration and resident engineering services for Permittee as outlined above. As for District's representative during the construction phase, all correspondence should be directed to: Harvey Passanti, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118, phone (408) 265-2600, extension 323.

9. There shall be no work in the sedimentation control facility area or disturbance of the existing ruby creek channel until all right of way has been acquired or an order for immediate possession obtained for the property in the sedimentation area. The District will be indemnified, defended and held harmless on account of any damages resulting in any way from construction activities associated herewith.

10. If a potentially active fault is found during site grading, the District reserves the right to modify the design of the facility, if necessary, to accommodate any such hazard.

11. All landscaping in sedimentation control facility shall be maintained by permittee for a 2-year period after completion of facility and intial planting. Supplemental watering shall be carried out by permittee if natural rainfall is insufficient to establish ground cover for the first season. NOTE: Maintenance of landscaped area shall include replacement of vandalized plants or rodent damage during maintenance period.

GENERAL PROVISIONS

A. This permit is valid only for the purpose specified herein. No change of program as outlined in application or drawings submitted with application will be allowed except upon written permission of the District.

B. Activities and uses authorized under this permit are subject to any instructions of the assigned District representative. ALL INSTRUCTIONS MUST BE STRICTLY OBSERVED.

C. Permittee shall assume entire responsibility for all activities and uses under this permit and shall indemnify, defend and save the District its officers, agents, and employees free and harmless from any and all expense, cost or liability in connection with or resulting from the exercise of this permit including, but not limited to, property damage, personal injury and wrongful death.

D. Any damage caused to District structures by reason of exercise of this permit shall be repaired at the cost of permittee to the satisfaction of the District. Should permittee neglect to make repairs promptly, district may make repairs, or have repairs made, and permittee agrees to reimburse District for all costs of such repairs.

E. This permit is valid only to the extent of District jurisdiction. Permits required by other interested agencies and consent of underlying fee owners of District easement lands are the responsibility of the permittee. NOTHING CONTAINED IN THIS PERMIT SHALL BE CONSTRUED AS A RELINQUISHMENT OF ANY RIGHTS NOW HELD BY THE DISTRICT.

F. This permit is subject to all prior unexpired permits, agreements, easements, privileges or other rights, whether recorded or unrecorded, in the area specified in this permit. Permittee shall make his own arrangements with holders of such prior rights.

G. Unless otherwise specified herein, this permit may be revoked or cancelled at any time by the District when required for flood control, conservation or water utility purposes.

H. Upon written notice of cancellation or revocation of this permit for any cause whatsoever, permittee shall restore District right of way and structure to their condition prior to the issuance of the permit and then shall vacate District property. Should permittee neglect to restore the premises or structures to a satisfactory condition, the District may perform such work or have work performed, and permittee agrees to reimburse the District for all costs of the work so performed upon receipt of a statement therefor.

I. Trench safety has not been checked and is not implied with this permit. For "Permit to Excavate", contact: Division of Industrial Safety, State of California, 888 North First St., San Jose, California 95112, phone (408) 277-1260.

J. Compliance with "Cal OSHA" California Labor Code Section 6300 (and following) is required

memorandum

W. Carlsen

To:	From:
John Richardson	Robert E. Tepel
Subject:	**Date:**
Faulting Near Ruby Creek Sedimentation Facility	March 12, 1981

At your request, this memorandum describes faulting near the proposed Ruby Creek Sedimentation Facility site on Klein Road. In the past two years I have visited the area several times, reviewed geologic literature and reports prepared by both the owner's consultants and others, participated in at least two meetings with the owner's consultants, and, finally, made suggestions regarding geotechnical aspects of the project which were, in general, satisfactorily taken into account in the most recent design I have reviewed.

The proposed Ruby Creek Sedimentation Facility site is within an Alquist-Priolo zone (San Jose East Quadrangle) which includes the Quimby fault. As shown on that map, the approximate distance and direction of nearby faults from the proposed debris basin "dam" (proposed Tully Road fill) are as follows:

FAULT	DISTANCE AND DIRECTION FROM SITE
Quimby (W. Trace)	600 Feet NE
Quimby (E. Trace)	1,300 Feet NE
Hayward	3,600 Feet NE
Evergreen	2,200 Feet SW

The Quimby, Hayward, and Evergreen Faults were classified as "potentially active" in California Division of Mines and Geology Special Report 107 (1974). I recently reviewed 10 Alquist-Priolo reports on parcels near the proposed Ruby Creek facility. None of the work done for those reports revealed the Quimby fault as a feature extending to or near the surface. One investigator questioned the existence of the west trace of the Quimby fault, and several think that if the fault exists at all, it is old and not active or potentially active. However, the work done to date does not completely cover the possible range of locations of the Quimby fault, in my opinion, so we do not have 100% assurance that it does not exist or is inactive. It certainly is elusive.

The District has long been aware of the faults on the East Side and taken them into account in design studies. A 1972 report on the Evergreen Pipeline alignment by Earth Sciences Associates covered general geology of the area and presented some geophysical survey data. The faults in the table above, among others, are discussed in various Woodward-Clyde Consultants reports to the District regarding the "Evergreen Water Storage Project" (East Reservoir) done in 1976-78.

The seismicity of the East Side area was discussed, with particular reference to the Hayward, Calaveras, and Silver Creek Faults, in the EIR for the East Flood Control Zone Project by URS Research Company (their project URS 7335), dated August 1974. Although this report offers the usual cautions for design and construction in a seismically active area, the projects covered are not deemed infeasible. Later reports cover some specific facilities. The EIR by MacKay and

Somps on the Norwood Creek Project, dated July, 1973, concluded that "the probability of surface rupture occurring at any time across the project is low during the life of the project and very low for rupture during flood flows." Geologic conditions at the Flint Creek sediment control facility were described in a report by Soil Foundation Systems, Inc., to Ditz-Crane, dated December 1978, (their file No. S8-373-2). The report was concerned with the mapped trace of the Evergreen fault which was projected through the site. However, they concluded that the Evergreen fault does not cross the sediment basin site.

Faulting in the vicinity of the Ruby Creek Sedimentation Facility site was discussed in the Terratech report on the Sedimentation Facility (their project 2600), dated April, 1979, to Dura Style Homes. That report was made available to the District. Faulting in the vicinity of the facility was also discussed in a later (November 15, 1979) report on the facility by Purcell, Rhoades & Associates (their project No. 2667) for Kaufman and Broad, which was made available to the District. Both the Terratech and Purcell, Rhoades reports were concerned with what is essentially the site now under consideration. The Purcell, Rhoades report is broader in scope; they made no recommendation for specific additional exploration to locate the Quimby fault or determine its activity status. With respect to ground shaking, the Purcell, Rhoades report concludes "... the anticipated ground shaking effects would be no more severe at the property than those that will be experienced in the immediate surrounding areas." They also conclude that "...the proposed Ruby Creek Retention Basin can be constructed in its presently planned location in such a manner that it performs its intended function..."

In my view of the Purcell, Rhoades & Associates report, I was aware of the tectonic setting of the site. It was and is my opinion that the hazard of surface faulting at the site is low enough that no special exploration for active faults is necessary nor are any special design considerations necessary at this time to mitigate surficial fault displacement.

It also was and is my opinion that, provided reasonable consideration is given in the final design of all elements of the facility to the effects of a rational "design earthquake", and provided that competent construction inspection is done (including intermittent geologic inspection) the hazard presented by the basin in the design earthquake can reasonably be found to be acceptable. These opinions are based on the intended use of the site, as a sediment control facility, the inherently conservative design aspects of the retention embankment, and the character of faulting which could occur in the area.

In summary: 1) the Quimby fault is apparently not the threat it was once thought to be, 2) geologic evidence indicates that critical parts of the facility are well clear of the location of significant traces of any known active or potentially active fault, and 3) if a potentially active fault is found during site grading, it should be feasible to modify the design of the facility (if necessary at all) to accommodate any hazard perceived at that time. Because geologic observation

during site grading offers (in this case) a better chance to see and analyze significant faulting than would an exploration program, I suggest that such observation be included in the project specifications, as should the right of the District to modify the design during construction in the remote event that a hazardous fault is found.

Robert E. Tepel

Engineering Geologist
Geology and Water Quality Division

cc: E. Watson
D. Gill
W. Carlsen
R. Tepel

RET:kj

AGENDA MEMORANDUM

AGENDA DATE ~~2/24/81~~ 3/10/81 ITEM NO. 1 UNIT Flood Control

ZONE E PROJECT NO. 4019 NAME Ruby Creek

SUBJECT: Three Resolutions Determining and Declaring Public Necessity for the Acquisition of Real Property or Interest therein and Authorizing Eminent Domain Against (1) RICHARD A. and PATRICIA C. BIBBY (Vendee) DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA (Vendor), (2) JEAN L. GLICK, and (3) KENNETH H. AND HAZEL J. HALL

Parcels 2, 3, 6

EXPLANATION:

Property locations are shown on the attached map and plats.

Pursuant to the agreement of May 13, 1980 between the District and Kaufman and Broad, Kaufman and Broad have acquired land from the majority of affected property owners to satisfy City of San Jose and District requirements for siting the extension of Tully Road and the proposed Ruby Creek Sediment Control Facility. Kaufman and Broad and subsequently District Right of Way staff have been unable to acquire land from three remaining owners after making the bonafide effort they have reported to the Board, and now request that the District proceed to consider condemnation in accordance with the terms of the agreement.

The proposed resolutions authorize eminent domain action against the following owners:

(1) Richard A. and Patricia C. Bibby (Vendee) and Department of Veterans Affairs of the State of California (Vendor) Parcel No. 4019-2

(2) Jean L. Glick Parcel No. 4019-3

(3) Kenneth H. and Hazel J. Hall Parcel No. 4019-6

Each of said owners has been given written notice by certified first class mail of the intent of the Board to adopt the subject resolutions of necessity in accordance with the requirements of Section 1245.235 of the California Code of Civil Procedure.

The Board will note that each of the resolutions states the Board's finding and determination that:

(a) The public interest and necessity require the proposed project.

(b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

CONTINUED

RECOMMENDATION: That the three resolutions be adopted by separate actions of the Board.

Continued from 2/24/81

SUBJECT: Three Resolutions Determining and Declaring Public Necessity for the Acquisition of Real Property or Interest therein and Authorizing Eminent Domain Against (1) RICHARD A. and PATRICIA C. BIBBY (Vendee), DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA (Vendor), (2) JEAN L. GLICK, and (3) KENNETH H. and HAZEL J. HALL

(c) The property described in the resolution is necessary for the proposed project.

The proposed project will be described by staff. It is necessary because the existing channel of Ruby Creek below Ruby Avenue is too small to convey flood flows. In the event of a 1% flood, approximately 235 existing homes could be flooded suffering an estimated damage of $490,000.

Briefly stated, the element of the project which is proposed to be placed on the subject lands is a sediment control basin and appurtenances necessary to prevent siltation and blockage of the downstream piping system which will convey and control flood waters of Ruby Creek. Its location is dictated by the planned alignment of the City of San Jose's streets, specifically the extension of Tully Road.

Adoption of the resolutions requires the affirmative vote of at least five Board members.

The Resolutions are in standard form and language.

3/4 Land del SAE (JL) GSK JTO ATH JLR DAL WFC

CITY OF SAN JOSÉ, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CA 95110
(408) 277-4000

A.R. TURTURICI,
ASSISTANT CITY MANAGER
AND
DIRECTOR OF PUBLIC WORKS

March 3, 1981

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

RECEIVED
MAR 04 1981
S.C.V.W.D.

Attn: Mr. Jim Lenihan
Chairman of the Board

Subject: Ruby Creek Sediment Control Basin

Dear Mr. Lenihan:

In the spirit of cooperation that has long existed between the City and the District, the City of San Jose has imposed a condition upon certain developers in the Tully - Klein area of East San Jose that requires them to purchase land and construct a sediment control basin for the headwaters of Ruby Creek. It is our understanding that the subject developers have been able to negotiate the purchase of most of the land necessary for the sediment control basin and that your Board is considering acquiring the remaining properties by eminent domain.

The alignment of Tully Road was set by the City during its General Plan amendments in 1975. The requirements for flood control protection imposed by the City, at the request of the District, have increased the cost of development in the Tully - Klein area but, in our opinion, will give much needed protection downstream.

We understand that property owners in the area have suggested that the sediment control basin for Ruby Creek be located south of the Tully Road alignment. Tully Road in this area will be the dividing line between urban development and rural development. We feel that this type of facility is more appropriate to a rural area and should be isolated from urban development by Tully Road. A sediment control basin immediately adjacent to high density residential areas would be more of an attractive nuisance and would tend to make operation and maintenance of the facility more difficult.

The City is already contractually obligated to allow development

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (04-06-81)

No.	Name	Initial	1981	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GARRETT				
	GILL				
	HENLEY				
	KORBAY				
	WILSON				

No.	Name	Initial	1981	Code	No.	Name	Initial	1981	Code	No.	Name	Initial	1981	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Francis					Central Files			
	Flores					Finance					Library			
	Holley					Bundy					Lowrance			
	Melton					Fujita					Marovich			
	Personnel					Simons								
						Smith								
	GARRETT					KORBAY					GILL			
	Kriege					Burger					Cotton			
	Bramblett					Carlsen					Cournoyer			
	Erling					Hall					Dean			
	Pardini So.Co. Office					Lawrie					Donnell			
	Regadanz					McNeely					Ferguson			
	Sanchez					Richardson					Watson			
	Sutcliffe					Wilson (Bruce)								

Action Codes:
A. Rush
B. Contact Me
C. Follow Up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare Response
L. Coordinate

Remarks:

NOTE: ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

south of Tully Road. A condition of this development is construction of the sediment control basin north of Tully Road.

We strongly support the recommendation of the Santa Clara Valley Water district staff to acquire the remaining property necessary for the construction of a sediment control basin north of Tully Road. We trust that you will make the information in this letter available to the other members of your Board.

A. R. Turturici
Assistant City Manager/
Director of Public Works

SAH:cmm

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (04-06-81)

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Remarks:

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AGENDA MEMORANDUM

AGENDA DATE 2/24/81 ITEM NO. 1 UNIT Flood Control

ZONE E PROJECT NO. 4019 NAME Ruby Creek

SUBJECT: Three Resolutions Determining and Declaring Public Necessity for the Acquisition of Real Property or Interest therein and Authorizing Eminent Domain Against (1) RICHARD A. and PATRICIA C. BIBBY (Vendee) DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA (Vendor), (2) JEAN L. GLICK, and (3) KENNETH H. AND HAZEL J. HALL

Parcels 2, 3, 6

EXPLANATION:

Property locations are shown on the attached map and plats.

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Each of said owners has been given written notice by certified first class mail of the intent of the Board to adopt the subject resolutions of necessity in accordance with the requirements of Section 1245.235 of the California Code of Civil Procedure.

The Board will note that each of the resolutions states the Board's finding and determination that:

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(b) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

CONTINUED

RECOMMENDATION: That the three resolutions be adopted by separate actions of the Board.

SUBJECT: Three Resolutions Determining and Declaring Public Necessity for the Acquisition of Real Property or Interest therein and Authorizing Eminent Domain Against (1) RICHARD A. and PATRICIA C. BIBBY (Vendee), DEPARTMENT OF VETERANS AFFAIRS OF THE STATE OF CALIFORNIA (Vendor), (2) JEAN L. GLICK, and (3) KENNETH H. and HAZEL J. HALL

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Briefly stated, the element of the project which is proposed to be placed on the subject lands is a sediment control basin and appurtenances necessary to prevent siltation and blockage of the downstream piping system which will convey and control flood waters of Ruby Creek. Its location is dictated by the planned alignment of the City of San Jose's streets, specifically the extension of Tully Road.

Adoption of the resolutions requires the affirmative vote of at least five Board members.

The Resolutions are in standard form and language.

DRAFT/Carlsen/2/18/81

PROPOSED RUBY CREEK PRESENTATION TO THE BOARD, FEBRUARY 24, 1981

INTRODUCTION:

In the early 1970s the District, in conjunction with the City of San Jose, the County of Santa Clara, and others, formulated a plan of operation for the East Flood Control Zone. They identified 18 projects within the East Zone and adopted a series of plans. Even before Proposition 13 passed the East Zone had financial problems. In order to utilize all available financing the City of San Jose and the District formulated a method of operation to get the needed facilities built. It was decided that when a development was started in the area, the developer would be responsible for the installation of the flood control facility. Flint Creek and Norwood Creek have been constructed in this manner.

The project that is now being presented to the Board is a sediment control facility and appurtenances on Ruby Creek that will be constructed by the developer. The developer has asked that the District acquire the necessary right of way at the developer's expense. Project will provide flood protection to the proposed development and will protect approximately 235 existing homes from sheet flooding.

PROJECT LOCATION:

Ruby Creek located between Flint Creek on north and Norwood Creek on south generally east of White Road.

Watershed area at proposed sediment basin	-	270 acres
1% design flow at proposed sediment basin	-	190 cfs
2% design flow at proposed sediment basin	-	170 cfs
Watershed area at White Road	-	900 acres
1% design flow at White Road	-	260 cfs
2% design flow at White Road	-	240 cfs

PROPOSED PROJECT:

Begins approximately 150 feet east of White Road where City of San Jose will construct lower reach of Ruby Creek in conjunction with White Road project.

Project to Consist of:

1. 5,386 feet of concrete pipe 54-inch diameter to 84-inch diameter.
2. Inlet control structure.
3. Sediment control facility approximately 500 feet long.
4. "Grasscrete" lining approximately 400 feet long in bottom of sediment control facility.
5. Hydromulch all unvegetated areas in basin except "Grasscrete".
6. Seed "Grasscrete" with grass.
7. Install fence and guardrail around sediment control facility.

PROJECT HISTORY:

See attached detailed summary and memo regarding environmental assessment of three sediment control facility sites by Bernie Goldner.

RUBY CREEK - SUMMARY

1960-1970	Subdivisions in lower reaches of creek developed - creek outfalled into storm drain.
January 13, 1970	Hearing Plan by Ruth and Going adopted by District Board.
1973	Plans updated and made part of East Side Bond Issue; EIR prepared, BUT NOT APPROVED BY BOARD OF DIRECTORS.
January 1977	Plans from City for Valwest, westerly of Ruby Avenue, southerly Tully Road. Site in Phase 3, must meet those criteria. Tract 6377.
July 1, 1977	Advised developer's engineer, HMH, of proposed location of sediment basin per '73 plans.
July 19, 1977	Verbally approved relocation of sediment basin to location now proposed.
July 29, 1977	Letter from Santa Clara Valley Water District (SCVWD) regarding DEIR. No comments regarding DEIR, Tract 6377.
August 2, 1977	Letter to SCVWD regarding sediment control facility from HMH requesting relocation to location now proposed.
August 10, 1977	Resolution of Planning Commission, No. 77-57. Final EIR approved by Planning Commission, Tract 6377.
August 15, 1977	Letter from SCVWD approving sediment control facility in proposed location.
September 1, 1977	Developer proposes project from his site up to and including debris basin as part of Tract 6377.
September 6, 1977	City of San Jose, Engineering Services Department, Memorandum regarding Engineer's Report, Evergreen Development Policy, File No. C 76-12-180. Approves developer's proposal of September 1, 1977.
October 5, 1977	City of San Jose Project Application Report - Planning Commission requires Ruby Creek improvements from Lake Cunningham to and including sediment basin.
October 5, 1977	Letter from SCVWD regarding rezoning application of Valwest (76-12-180); protest from District that developer not meeting Evergreen development policy by proposing only to build Ruby Creek from his development upstream to sediment basin.
October 5, 1977	Letter from City of San Jose Planning, recommending approval with certain conditions, requires Ruby Creek improvements in conjunction with Tract 6377 (from Lake Cunningham to sediment basin).

November 8, 1977	City of San Jose Memorandum regarding public works report.
November 10, 1977	SCVWD regarding up-to-date cost estimate.
December 9, 1977	Letter from SCVWD regarding tentative map for Valwest, Tract 6377.
December 20, 1977	City Council regarding zonings.
January 3, 1978	Addendum to City Council Agenda regarding ordinances for final adoption. EIR approved, Tract 6377.
February 15, 1978	District review of tentative map, Tract 6659.
March 15, 1978	Letter to SCVWD from HMH regarding acquirement of property by condemnation for sediment basin.
April 12, 1978	Waiver of Planning Director regarding geologic report, etc., Tract 6377.
April 17, 1978	Letter from SCVWD regarding proposed sediment control basin access road and that District could condemn property for sediment basin. Requested soils report regarding access road.
July 24, 1978	SCVWD, Flood Hazard Report, Tract 6377.
July 31, 1978	Negative Declaration, Tract 6659.
June 19, 1979	Letter from HMH, Inc., regarding Ruby Creek improvements, forwarding preliminary plans.
August 6, 1979	District requested additional detailed soil and geologic investigation regarding proposed sediment basin.
January 9, 1980	Meeting at District with developer's engineer, HMH.
January 16, 1980	Letter from HMH, requesting District acquire property for sediment basin.
January 31, 1980	Meeting, Hall's house. Developer's engineer and District staff explained project to property owners at proposed sediment basin.
February) March) 1980	Exchange of letters between Mr. Henley and Mr. Bruce Tichinin, attorney for residents.
March 14, 1980	Environmental Assessment covering location of sediment control facilities at three potential sites, by B. Goldner.
April 1, 1980	District Board approval in concept of the request that the District obtain needed right of way for the project and direct preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board.

Continued to 4/15/80

April 15, 1980	The Board approved in concept that the facility be located adjacent to and in accordance with the location of Tully Road as established by the City of San Jose and that negotiations between the developers and the affected property owners be encouraged and that preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board be directed.
May 13, 1980	The Board of Directors approved an agreement with Kaufman & Broad which provides that company will build flood control facilities on Ruby Creek. Company was obligated to use all reasonable means to secure property rights with the understanding that, if unsuccessful, District would "use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights".
August 18, 1980	Letter from Kaufman & Broad outlines the status of their negotiations with the owners of the seven properties involved in the Ruby Creek Sediment Control Facility. When the letter was written, agreement had been reached with one owner. Letter suggests condemnation proceedings.
September 16, 1980	Staff authorized by Board to proceed with acquisition of property.
October 14, 1980	Staff authorized by Board to hire independent appriaiser.

Memorandum

TO	John Richardson	FROM	Bernie Goldner
SUBJECT	Ruby Creek Flood Control Project	DATE	March 14, 1980

The following is my assessment of the impacts of locating the sediment control basin of the Ruby Creek Flood Control Project at three potential sites. The sites, shown on the accompanying map, are: (1) Site A, proposed by HMH, Inc. and approved by the District in 1977 (see attached letter), (2) Site B, downstream of Site A originally designated in the District's Report on Proposed Improvements on Flint and Ruby Creeks and, (3) Site C, located along Ruby Creek immediately upstream of Klein Road, suggested recently by staff as an alternative to the other two sites.

It is my understanding that all three sites will function adequately from an engineering and technical standpoint. According to Bob Tepel, there are no significant geological differences between the three sites that would give preference to one site over the other.

Win Stiles field surveyed the sites for biological impacts. He concluded that locating the basin at Site C would have the greatest impact since this reach of the creek does have some trees and wildlife habitat that could be removed by construction, grading or operation of the basin. Even if the basin were to be built at the site, however, the biological impact could not be considered significant since the riparian plant community is not particularly rich. Riparian vegetation found along the creek at Site A or B is insignificant and would tend to naturally revegetate following excavation or placement of fill.

As regards visual impacts, although more difficult to access objectively compared to other types of impacts, it appears that location at Site B would result in the greatest impact since the basin would be surrounded by many homes in the proposed subdivision. The basin in this location would have to be excavated substantially below grade, and include a perimeter levee and a downstream embankment similiar in design to the Flint Creek sediment basin. Even with landscaping around the periphery of the basin at this site, the basin would be quite visually obtrusive, in my opinion. Location of the basin at either Site A or C would involve far less excavation and grading since the creek is deeply incised at these locations. Although several homes are located at elevations above Site A and C so that they would look down into the basin, far fewer homeowners would be visually impacted at these sites. The visual impact at Site C would be more severe than at Site A because the setting is more pastoral in character.

The concrete channel required along the creek bottom at Site A would be visible initially but only until silt filled in the channel. The proposed chain link fence around the perimeter of the basin would be a visually prominent feature and, therefore, I suggest that if a fence is necessary, then rustic split rail fence be substituted or the fence be eliminated entirely if agreement between the homeowners and HMH, Inc. can be reached on this issue. Another recommendation to mitigate visual impacts is to substitute gabions for sack riprap at the inlet works and wherever else sack riprap is required. The fill slope should be seeded with a quick germinating

groundcover to mitigate the short-term visual impacts of bare earth as well as provide erosion protection. In time, the slope will revegetate and blend in with the adjacent terrain.

The issue has been raised as to whether it is appropriate for the District to prepare a subsequent EIR under Section 15067 of the State EIR Guidelines since new information on the design of the basin at Site A has become available since approval of the City's 1977 EIR. The decision regarding a subsequent EIR basically rests on whether the recent design changes for the basin will result in significant new impacts not previously considered. These changes consist of the concrete channel bottom and the fill slope. As discussed above, I do not believe that these changes can be judged as significant provided that the mitigative measures proposed are implemented. While it is true that a number of homeowners adjacent to Site A strongly object to construction of the basin at this location primarily on the basis that portions of their property must be taken, I do not believe that these objections constitutes a significant impact in itself. Section 15084 of the State EIR Guidelines and case law have established that public controversy over a project must be based on a difference of opinion involving substantial evidence such as a disagreement between qualified experts as to whether a project would result in a hazard to the public.

A related concern expressed by some of the homeowners is loss in property value resulting from location of the basin adjacent to their homes. If the visual impacts are mitigated, I do not believe the value of their homes will be adversely affected by the basin.

Consequently, based on my assessment of the impacts of the proposed project at Site A, I do not find that a subsequent EIR is required since I have not been able to identify any impacts that cannot be mitigated to acceptable levels.

ORIGINAL SIGNED BY

Environmental Specialist
Project Development Branch

cc: B. Goldner
W. Stiles
W. Carlsen
A. Henley

BHG:mw

Attachment

MR. WILLIAM F CARLSEN S. JF
La Vista

DISTRICT BOARD OF DIRECTORS
R T. PFEIFFER, VICE CHAIRMAN -DISTRICT 1
PATRICK T. FERRARO—DISTRICT 2
ROBERT W. GROSS—DISTRICT 3
MAURICE E. DULLEA—DISTRICT 4
JAMES J. LENIHAN, CHAIRMAN—DISTRICT 5
LINDA PERALTA —AT LARGE
SIG SANCHEZ—AT LARGE

AGENDA

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY SAN JOSE, CALIFORNIA 95118

JOHN T. O'HALLORAN
GENERAL MANAGER

SUSAN A. EKSTRAND
CLERK OF THE BOARD
TELEPHONE (408) 265-2600

BOARD OF DIRECTORS MEETING

INFORMATION AND COPIES OF SUPPORTING MATERIAL ON THESE AGENDA ITEMS ARE AVAILABLE FOR PUBLIC USE AND REVIEW AT NO COST IN ROOM 103 (ACROSS THE HALL FROM THE BOARD ROOM).

February 24, 1981

1973 Quimby for George

9:00 a.m.

1. Roll Call.

2. Approval of Minutes - January 27, 1981.

3. Real Estate -

   Motions

   a) Right of Way Agreement with Joe A. and Kristine T. Halsey - Stevens Creek.

   b) Right of Way Agreement with Nik G. and Heidi Goetschi - Stevens Creek.

   c) Right of Way Agreement with Grace I. Kevorkian - Stevens Creek.

   Resolution

   d) Authorizing Exchange of Interest in Real Property with Patrick Joice - Coyote-Alamitos Canal.

4. Santa Clara Valley Water District as a Responsible Agency (CEQA): Findings on Proposed Subdivision Adjacent to Quimby Creek - Lands of D'Amico.

5. Report on Flood Hazard Mitigation - National Science Foundation (WSF) - continued from December 9, 1980.

6. Archeological Salvage of an Indian Burial Unearthed During Pipeline Excavation - Almaden Valley Pipeline, Unit II, Phase I and Phase II.

7. Nomination to East Flood Control Zone Advisory Committee.

8. Purchasing Assistant Reclassification.

   a) Resolution.

(over)

9. Annual Report: Water Utility Enterprise, Preliminary - February 1981 - Staff Presentation.

10. Budget Adjustment to Provide Funds to Cover Purchase of State Water for the Remainder of Fiscal Year 1980-81.

11. Information Items -

    a) Report by Arthur Young and Company Regarding Auditing Services Performed During 1980.

    b) Notice of Special Districts Association General Membership Meeting on February 26, 1981.

    c) National Association of Flood Management Agencies Monthly Newsletter - January 1981.

    d) Minutes - San Felipe Committee Meeting of August 21, 1980.

    e) Report of Bills Paid for Week Ended February 6, 1981.

    f) Summary of District Activities - January 1981.

    g) Minutes - Agricultural Water Advisory Committee - February 2, 1981.

12. Board Members Oral Reports on Activities.

13. Other Business.

14. General Counsel May Request an Executive Session for a Brief Discussion of Pending Litigation.

9:15 a.m.

15. Resolutions (3) Determining and Declaring Public Necessity for the Acquisition of Real Property or Interest Therein and Authorizing Eminent Domain Action Against: 1) Richard A. and Patricia C. Bibby (Vendee), Department of Veterans Affairs of the State of California (Vendor), 2) Jean L. Glick, and 3) Kenneth H. and Hazel J. Hall - Ruby Creek.

9:30 a.m.

16. Time Open for Public Comment on any Subject Not on Agenda.

10:00 - 10:15 a.m.

Coffee Break - Public Welcome.

17. Adjournment.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 pm Bd Rm Agri Wtr Adv Comm 2	9 am Adj Bd Mtg 3	7:30 pm City Hall Gilroy Uvas Crk Corps of Eng Mtg 4	7:30 pm BD/Sup Chmbrs 70 W Hedding IGC Mtg 5	6	7
8	9	9 am Board Mtg 10	10 am RWTP No Cen FC Zone Advis Comm Mtg 11 ~~9:30 am 70 W Hedding Surface Runoff Coord Comm Mtg. (208)~~ CHANGED TO 3/11/81	HOLIDAY 12	13	14
15	HOLIDAY 16	7:30 pm Campbell Los Gatos Crk Strmsd Pk Comm Mtg Campbell City Hall ********** 2 pm RWTP Retail Water Agencies Mtg ********** 17	~~10 am Cupertino NoWest FC Zone Advis Comm Mtg~~ CANCELLED See 2/19 18 11 am La Hacienda Inn LG City Mgr Assoc	~~9 am Bd Rm East FC Zone Advis Comm Mtg~~ CANCELLED 19 9 am Bd Rm - Jt Mtg-All (5) FC Zone Adv Comms Mtg 1:30 pm Hyatt-San Jose CWRA	9 am Hyatt-San Jose CWRA Bd Mtg 12N Luncheon 20	21
22	23	9 am Board Mtg ********** 9:30 am EBMUD Off SF Bay Area Reg Water Reuse Study Pol. Bd Mtg. ********** 24	25	~~10 am City Hall Gilroy South FC Zone Advis Comm Mtg~~ CANCELLED See 2/19 26 7 pm Pellinores Rest (Pruneyard Center) SDA Annual Mtg	9 am Water Reuse Adv Comm RWTP 27	28

2/19/81
New Items ********

February 1981

Santa Clara Valley Water District
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

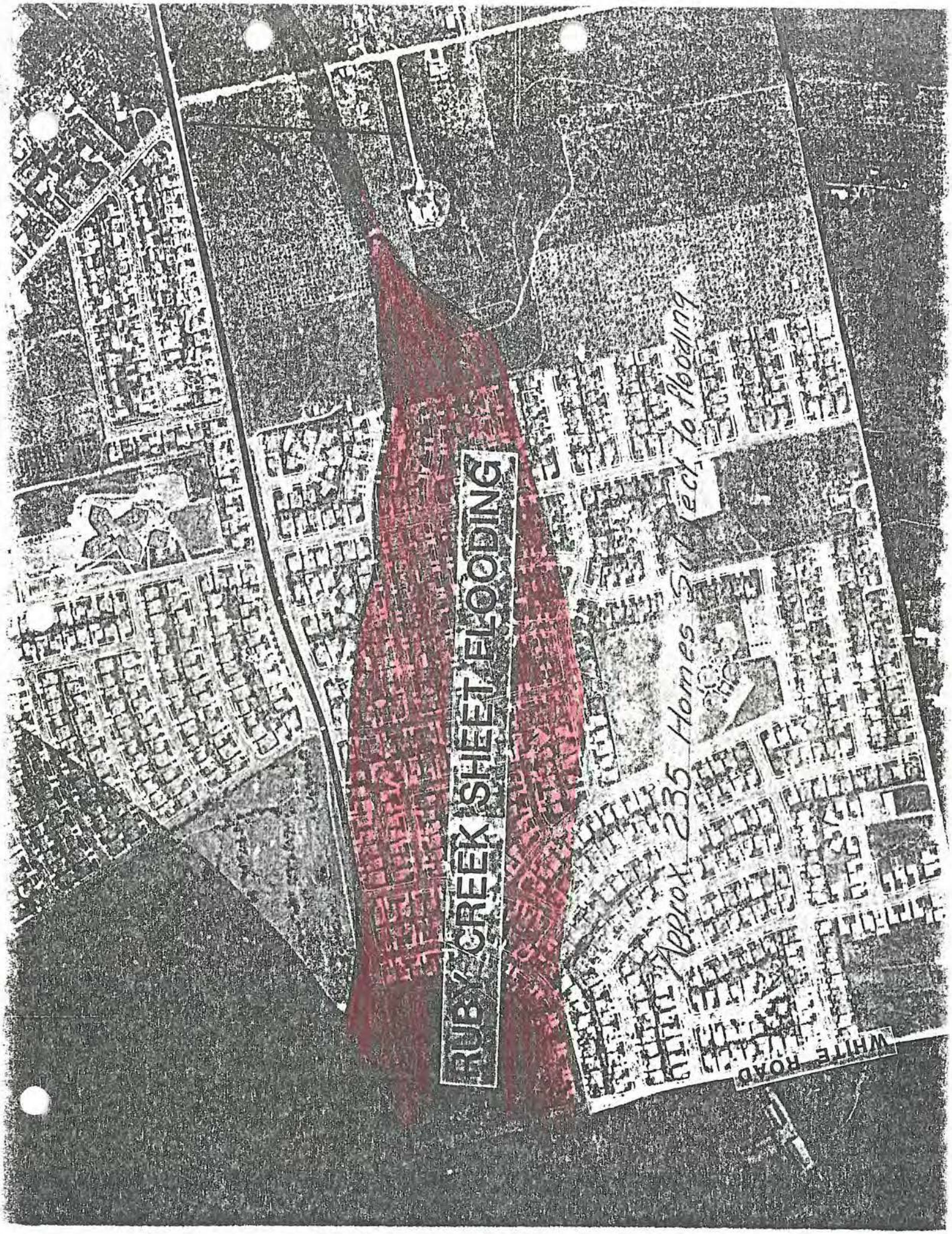
OVER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2 2 pm Bd Rm Agri Wtr Adv Comm	3	4	5 7:30 pm BD/Sup Chmbrs 70 W Hedding IGC Mtg 2 pm Bd Rm San Felipe Comm	6	7
8	9	10 9 am Board Mtg	11 9:30 am 70 W Hedding Surface Runoff Coord Comm Mtg (208)	12 6:30 pm ICC Mtg	13	14
15	16	17 7:30 pm Campbell Los Gatos Crk Strmsd Pk Comm Mtg Campbell City Hall	18 11 am La Hacienda Inn LG City Mgr Assoc	19	20	21
22	23	24 9 am Board Mtg	25	26	27	28
29	30	31				

2/19/81
New Items *******

March 1981

Santa Clara Valley Water District
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600


RUBY CREEK SHEET FLOODING
Approx 235 Homes Subject to flooding
WHITE ROAD

B. Carlsen -

Draft 11/24/80
B. Goldner:ms

To: J. Richardson From: B. Goldner

Subject: Ruby Creek Landscaping

After discussing the need for watering the hydroseeding associated with the Ruby Creek project, I consulted with our resident landscape expert, Win Stiles.

He feels that if the seeding is done in early winter when rainfall can be counted on, then there is no need to install an irrigation system.

I believe that the agreement with the contractor should have words to the effect that supplemental watering shall be carried out if natural rainfall is insufficient to establish the ground cover for the first season. They could hand ~~haul~~ or truck water if they so desire.

BAG.

Environmental Specialist
Project Development Branch

cc: B. Goldner
B. Carlsen
W. Stiles

Bill
Modify our requirements on the Ruby Creek to reflect the above.

11/25

Item 4 May 15, 1980 Agenda

Mrs. Hazel Hall
2469 Klein Rd.
San Jose, Ca. 95148

Mr. Richard Bibb
2443 Klein Rd.
San Jose, Ca. 95148

Mr. Hubert King
2538 Klein Rd.
San Jose, Ca. 95148

Mr. Walter Kampfen 238-0408 called 4 times
2430 Klein Rd. invited to appear - said he'd
San Jose, Ca. 95148 [illegible] let us know

Jean Glick 238-0663 called on 20 May 80
2457 Klein Rd.
San Jose, Ca. 95148

Marie Inderbitzin
2496 Ruby Ave.
San Jose, Ca. 95148

Mr. Bill Ellis
3377 Valencia
San Bernardino, Ca.
92404

TRANSMITTAL REQUEST
FC 638 (11-30-78)

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

TO: Mr. Bruce Tichinin
17575 Monterey St.
Morgan Hill
Calif. 95037

HERE IS THE MATERIAL YOU REQUESTED.

SIGNED: W. F. Carlsen

DATE: 12 Sept 80

AN AFFIRMATIVE ACTION EMPLOYER

AGENDA MEMORANDUM

AGENDA DATE 9/16/80 ITEM NO. 4 UNIT Design & Construction

ZONE E PROJECT NO. 4019 NAME Ruby Creek Sediment Control Facility

SUBJECT: Request by Kaufman & Broad that District Assume Ruby Creek Acquisition Responsibility

EXPLANATION:

On May 13, 1980, the Board of Directors approved an agreement with Kaufman & Broad which provides that company will build flood control facilities on Ruby Creek. Company was obligated to use all reasonable means to secure property rights, with the understanding that, if unsuccessful, District would "use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights".

The attached letter dated August 18, 1980 from Kaufman & Broad outlines the status of their negotiations with the owners of the seven properties involved in the Ruby Creek Sediment Control Facility. When the letter was written, agreement had been reached with one owner. Since then, a second owner has settled.

Although the letter suggests condemnation proceedings, such action cannot be undertaken without proper preliminary actions. With Board concurrence, staff will proceed with appropriate appraisal and acquisition steps. If offers are rejected, a request for a Condemnation Resolution will be submitted later. City of San Jose staff has indicated a desire to develop a cooperative agreement with the District which would permit condemnation of rights in Tully and Klein Roads for street purposes.

RECOMMENDATION: That staff be authorized to proceed with project acquisition and develop an agreement with the City of San Jose.

You can see from the above that we are making every attempt to contact each and every one of the property owners. We would like to ask the Santa Clara Valley Water District to put us on their agenda for the latter part of September so this matter can come up for condemnation proceedings. We feel, in the next ten to twelve days we will have completely exhausted all attempts on each and every one of these home owners and we will know clearly who is willing to go along with what we feel is a realistic price and who is not. Action will have to be taken at that point, thus being put on the agenda the latter part of September. Feel free to contact me if you have any questions in this regard. We look forward to a speedy proceeding considering the time and effort that has been put in to date. We look forward to hearing from you.

Very truly yours,

KAUFMAN AND BROAD
OF NORTHERN CALIFORNIA, INC.

David G. Corliss
Forward Planner

cc: R. Miller
James T. Harper
HMH Engineers, San Jose

John Richardson
Santa Clara Valley Water District, San Jose

Kaufman and Broad of Northern California, Inc.
6379 Clark Avenue • Mailing: P.O. Box 2755
Dublin, California 94566
(415) 829-4500

Hand Del 8/ orig EHS
Same to WFC
JLR

Kaufman & Broad

August 18, 1980

SANTA CLARA VALLEY WATER DISTRICT
'80 AUG 18 PM 1:41

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California

Attention: Mr. Bill Carlson,
Director of Engineering

Subject: Acquisition of Individual Parcels for Ruby Creek Improvements.

Dear Bill:

The following will be a brief up-date for your office in regard as to what steps have been taken over the last month concerning contacting individual property owners for the acquisition of specific parcels to allow Ruby Creek improvements that are needed for our subdivision. You will also find a copy of an appraisal that was done last month. Upon my contacting the individual property owners the approach has been to offer them 50% above the appraisal figure for what the appraiser feels their property should be valued at. Needless to say there has been some positive as well as negative reations from the individual property owners. The following is our contacts to date concerning the above.

Parcel #1 in 17 owned by Marie Inderbitzen - I have met with Mrs. Inderbitzen a couple of time and most recently with some advisors of hers concerning acquisition of her property. It would appear that she is positive to consummating a sale. She is waiting for me to get back to her at this date with a new legal description based on the water district wanting less land in Parcel 1. Darwin Lee is evaluating that and sending me a new appraisal figure based on less square footage.

Parcel #2 owned by Department of Veterans Affairs/Mr. R. Bibby - Over the last thirty days I have tried on seven different occasions to reach Mr. Bibby. I have left cards in his mail box and letters to his attention. I have called him during the day and also during the evening and have not found him at to answer the phone. I know he has received my letters and my cards because one of the other home owners, Mr. and Mrs. Kampen, have advised me that he has talked to them to see what we are offering. My next step will be to send him a registered letter advising what we are offering in regards to his land. I can only assume that he is not interested at this point.

Parcel #3 owned by Jean Glick - I first approached Mrs. Glick on July 24, 1980 and discussed the above with her mother-in-law. Mrs. Glick was out of town for a week. I explained what we are prepared to offer on the property and she felt it was totally unrealistic and would relay the information to her daughter-in-law. She felt there would be no movement unless we were willing to double our offer. This parcel also has been decreased further for the Valley Water District needs for the basin. Again, I am waiting to get back to the Glicks regarding a new purchase price based on Darwin Lee's new appraisal figure for less footage. I feel at this point there is no movement here with the Glicks.

Parcel #4, 5A, 18 and 19 owned by Bill and Maxine Ellis - The Ellises are represented by a local realtor, Marie Leigh of New Directions Real Estate Service, San Jose. I have met with her on several occasions. They have had "curb" appraisal done by MAI appraisers which would indicate to them that this lot is completely buildable for a single-family residence, and based on that being a single-family lot, they feel the price that we have offered is unrealistic and should be double our offer. We mentioned this to our appraiser Darwin Lee. Darwin Lee feels maybe, there is a very slight chance the lot is buildable but the expense in retaining walls, septic tanks on a hillside would be so unrealistic financially that this lot in essence is not buildable. There is no movement to date although it is my intent, upon Darwin Lee getting back to me, in writing, that I will get back to Mrs. Ellis and her representative.

Parcel #6, 14 and 15 owned by Walter and Thais Kampfen - Met with them on four different occasions during the last month. They are definitely interested in selllng their property.. In fact, we have opened escrow to purchase their property. The only thing that is holding the close up to this point is, again the Santa Clara Water District has indicated a new legal description and Ruby Creek retention basin needs less square footage off of Parcel 6. Darwin Lee, again, is getting back to me concerning a new appraisal price based on less square footage for their land. Upon receiving that and getting an approval by the owners I feel a close will happen shortly.

Parcel #7, 8, 9, 10, 16 and 21 owned by Kenneth and Hazel Hall - I have called the Halls and gone by on a number of occasions the past month and have not been able to find them at home. They are represented by an attorney in Gilroy and I have contacted him and am having a difficult time having him return my calls. Mrs. Hall has made her position very clear that no sum could buy her property. I feel there isn't any movement here although my next step will be to send her a registered letter with a copy to her attorney.

Parcel #11, 12, 13 and 20 owned by Herbert King - After a number of attempts, I finally talked to Mr. King's wife. On July 30th I told her our intent and a price we were willing to pay for the land. She was very non-committal and told me that she would pass it on to her husband. I have not heard from him and have left messages in mail box. He has not contacted me. I am assuming that he is not interested, again, as a last resort I will send him a registered letter.

5. Promptly upon completion of construction of the project pursuant hereto, all right and property therein and to the said property rights therefor shall be granted and conveyed by Company to District.

WITNESS our hands the day and year first above written.

SANTA CLARA VALLEY WATER DISTRICT

MAY 13 1980

By Linda Peralta
Chairman of the Board of Directors
"District"

ATTEST: SUSAN A. EKSTRAND

MAY 13 1980

Susan A. Ekstrand
Clerk of the Board of Directors

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC.

By R. Hill 5/8/80

By _____

"Company"

4. Mr. George Korbay, Design and Construction Manager, reviewed the proposed agreement with Kaufman & Broad of Northern California, Inc., for construction of Ruby Creek and related facilities. An explanation is contained in the attached agenda memorandum and proposed agreement. Mr. Korbay stated that the Board's last action on the item was to grant concept approval for staff to formulate an agreement with a potential developer of the Ruby Creek Facility. The attached agreement with Kaufman & Broad is a result of that direction. Staff is recommending approval of the attached agreement.

AGMT
KAUFMAN &
BROAD
RUBY CRK

Director Sanchez asked Mr. Albert T. Henley, General Counsel, that if the Board determined that the Developer did not, in good faith, make a reasonable effort to acquire by negotiation and agreement the property rights with the affected landowners, would the proposed agreement be null and void.

Mr. Henley replied that if the Board made a reasonable objection to the Developer's effort and the Developer refused to consider redoing that effort then the agreement would be deemed breached by the Developer and of no further effect.

A discussion followed.

Mr. Bruce Tichinin, attorney for some of the affected landowners, addressed the Board.

APPEAR
B TICHININ
ATTY

Mr. Tichinin stated that on several occasions he has inadvertently misstated Mr. Henley's position and to avoid it happening again he asked Mr. Henley what, if anything, does he perceive to be the legal consequence if the vote with respect to the proposed agreement remains the same as it was the last time the issue was before the Board and the Board did not have the two-thirds majority required by law to institute eminent domain proceedings.

Mr. Henley stated that it was his intention to inform the Board on this matter and , therefore, is prepared to answer the question if theChairman requests him to do so. Chairman Peralta so requested. Mr. Henley stated that if the Board approves the proposed agreement by less than a five/sevenths vote, that the balance of the Board can vote any way they choose to if and when a resolution is required for eminent domain proceedings. Mr. Henley further stated that he sees no illegality nor anything beyond the powers of this Board in entering into the proposed agreement by less than a five/sevenths vote.

A discussion ensued regarding whether or not the wording of the agreement should be changed to avoid any future legal problems.

Mr. Tichinin suggested to the Board that he feels if the Board would vote to install the facility on the Developer's property that the Developer would work with the District ; therefore the District would have the necessary facility, the citizens would be happy and the Developer, the District and the citizens would all be working together; that additionally, it would be appropriate for the Board to consider his suggestion since at the last vote the Board did not have the five/sevenths vote necessary for eminent domain proceeding.

A discussion followed on whether the City has definitely set the alignment of Tully Road. TULLY RD ALIGNMENT

Mrs. Hazel Hall, affected landowner, stated that the moving of the alignment of Tully Road would only affect two developers. Mrs. Hall stated that if the City Council was aware of the fact that the facility was going to be on the developer's property then there was a good possibility that they would move the alignment of Tully Road. APPEAR HAZEL HALL

Mr. James Harper, H. M. H. Civil Engineers, representing Kaufman & Broad, stated that he feels the Board in fact has the jurisdiction and authority to make the decision on whether or not Kaufman & Broad has made a fair and equitable effort to negotiate with the landowners. He feels the appropriate steps that Kaufman and Broad should take, and report back to the Board, would be (1) an appraisal by a non-interested party, (2) a fair market value established on the property, (3) an offer by the Developer, (4) a response to the offer by the property owners, and (5) depending on the response of the owners, report to the staff or the Board the differences and what are possible alternatives. APPEAR J HARPER HMH CV ENG

Mr. Tichinin stated that he represents Mrs. Hall, Mr. King and Mr. and Mrs. Biby. Mr. Tichinin does not currently represent Mrs. Glick. Mr. Tichinin commented that the Developer has approached his clients regarding their selling their property. Mr. Tichinin commented further that his clients have no intention of selling their property and in his opinion the Board does not have the right to condemn their property for the proposed purpose. That is his clients' position and it will not change with any future offers.

Mr. Henley read aloud to the Board a suggested change in the language of the proposed agreement. Paragraph 2 would read:

"2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights."

A discussion followed.

Director Ferraro moved to table the item.

The motion died for a lack of a second.

It was moved by Director Lenihan, seconded by Director Sanchez and carried by a roll call vote that the Chairman be authorized to execute the agreement as it has been revised by Counsel. Directors Ferraro and Pfeiffer voted no. APRVD AGMT AS REVISED

10. The Board considered the oral report by special counsel regarding Coyote Cabin cases.

401

May 15, 1980

Mr. Robert G. Miller, Senior Vice President
Kaufman & Broad of Northern California, Inc.
6379 Park Avenue
Dublin, California 94566

Dear Rob:

As we discussed, here are two copies of the amended and so executed agreement between us for installation of the Ruby Creek project.

As we have discussed, the Board agrees to consider condemnation as a means of acquiring the necessary property rights only upon their finding that your company has exhausted all other possibilities of acquisition.

Our recent comments on your previously submitted plans demonstrate that we want to do everything possible to minimize impacts of the project to the surrounding community. If, in your contacts with neighbors or others, any other possibilities present themselves, do not hesitate to bring them to our attention.

If agreeable, please initial the amended Section 2 under "Agreement" and return one copy to us.

Sincerely yours,

ORIGINAL SIGNED BY

George Korbay
Design and Construction Manager

Attachment

cc: Mr. Jim Harper
HMH, Incorporated
A. Henley
S. Ekstrand
D. Lawrie
J. Richardson

GK:mw

#A0459

File: 4019AA
Ruby Creek

AGREEMENT

SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California, hereinafter "District", and

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC., a California Corporation, hereinafter "Company",

AGREE this 13th day of May, 1980 as follows:

RECITALS:

A. Company is preparing to build certain flood control and related facilities (hereinafter "the project") upon certain lands. The project is shown on Exhibit A, so marked and hereunto attached.

B. Upon completion of construction of the project in accordance with District approved plans and specifications, the same will become the property of District and will be put to a lawful District purpose, to wit, as a sediment control facility together with all necessary appurtenances.

AGREEMENT:

1. Upon receipt of necessary approvals of governmental agencies having jurisdiction, Company will construct, or secure construction of, the project in strict accordance with District approved plans and specifications therefor. Company will in good faith use all reasonable means to acquire by negotiation and agreement the property rights necessary for such construction. Company will inform District of all efforts made in connection with such acquisition.

2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights.

3. Company will pay, promptly upon receipt from District of itemized invoices therefor, all costs of such acquisition incurred by District.

4. Costs so to be paid by Company shall include legal, engineering, appraisal, and administrative costs reasonably required by such acquisition and actually incurred therein.

PLEASANT HILLS GOLF COURSE
WHITE
LAKE CUNNINGHAM PARK
BEGINNING OF PROJECT
Vista Verde Drive
Cuesta Dr.
Prado Ln
Suenb Drive
Dias Drive
Foresta Drive
Selva Dr.
Holderman
Rend Dr.
Ruby
Girl Way
Acres Dr.
Klein
VALLE VISTA SCHOOL
Chapala Dr.
Rio Bravo Dr.
END OF PROJECT
SEDIMENT CONTROL FACILITY
PIPELINE
TULLY ROAD
WHITE ROAD
KLEIN ROAD
Napa
Almond
Coconut
Bonbon
Taffy
Gumdrop
Sugarplum
CEDAR GROVE SCHOOL
Fronda
Trebol
Goldwood
Flintwood
Flintview
San Rivas
San Saba Dr.
Bien Wy
Quesada Dr.
Cerrito Wy
Pepperidge Dr.
Buttonwood
Blue Oak
Clover Oak Dr.
Cedardale Dr.
Cedar
Broken Oak
RUBY CREEK IMPROVEMENTS
EXHIBIT A
SCALE 1" = 500'

Carlsen

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

September 3, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Bruce:

Receipt of your letter of August 27, 1980, is acknowledged.

I know of no attempts by District personnel to deal directly with any person when that person is legally represented and absent counsel's knowledge and leave. I cannot answer for private persons.

I note your statement regarding your clients Kenneth Hall, et ux. and Hubert F. King. We will of course act accordingly. The requirements of law relative to notice prior to initiation of condemnation will be met, in the case of these landowners, by communication to your office.

Faithfully,

Albert Thomas Henley
General Counsel

bc: G. Korbay
W. Carlsen
Right of Way

ATH:scs

Carlsen

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

September 3, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Bruce:

Receipt of your letter of August 27, 1980, is acknowledged.

I know of no attempts by District personnel to deal directly with any person when that person is legally represented and absent counsel's knowledge and leave. I cannot answer for private persons.

I note your statement regarding your clients Kenneth Hall, et ux. and Hubert F. King. We will of course act accordingly. The requirements of law relative to notice prior to initiation of condemnation will be met, in the case of these landowners, by communication to your office.

Faithfully,

Albert Thomas Henley
General Counsel

bc: G. Korbay
W. Carlsen
Right of Way

ATH:scs

WFC
GSK 8/29

LAW OFFICES OF
TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

August 27, 1980

SANTA CLARA
VALLEY WATER DISTRICT
'80 AUG 29 PM 2:41

W. F. Carlson
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

RE: Ruby Creek Retention Basin

Dear Mr. Carlson:

This letter will confirm that I am the legal representative for Hazel and Kenneth Hall and Hubert F. King with respect to all matters regarding the attempts of Kaufman and Broad and the Santa Clara Valley Water District to acquire my client's lands.

A number of attempts have been made by representatives of both Kaufman and Broad and the District to deal with my clients directly regarding this topic. This letter is written to put you on notice that my clients, having thoroughly considered the matter, do not wish to sell their land and believe that the Santa Clara Valley Water District has no lawful authority to take their lands by eminent domain because taking in this instance serves a private rather than a public purpose. As well, my clients do not wish to be contacted personally regarding the matter in the future. Under the circumstances of their lack of desire to part with their land, such personal contact with them would constitute an harassment. It is therefore respectfully demanded that you deal exclusively with me whenever you wish to communicate any matter to them.

Thank you very much for your courtesy and assistance in this regard.

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:pr

cc; Hazel Hall, Hubert King

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (08-13-80)

No.	Name	Initial	1980	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GARRETT				
	GILL				
	HENLEY				
	KORBAY				
	WILSON				

No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Francis					Central Files			
	Flores					Finance					Library			
	Holley					Bundy					Lowrance			
	Melton					Fujita					Marovich			
	Personnel					Simons								
						Smith								
	GARRETT					KORBAY					GILL			
	Kriege					Burger					Cotton			
	Bramblett					Carlsen					Cournoyer			
	Erling					Hall					Dean			
	Pardini					Lawrie					Donnell			
	Regadanz					McNeely					Ferguson			
	Sanchez					Richardson					Watson			
	Sutcliffe (So.Co.Office)					Wilson (Bruce)								

Action Codes:
A. Rush
B. Contact Me
C. Follow Up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare Response
L. Coordinate

Remarks:

NOTE: ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

Draft/Richardson

To: George Korbay

From: John Richardson

Subject: Ruby Creek

July 14, 1980

Dave Corliss of K&B called to report ~~on~~ their progress on the property acquisition. They have completed their appraisal work and plan to meet with all parties starting tomorrow. Dave hopes to have the land acquired by the end of July. He intends to show the owners the appraiser's reports and offer 50% more. I told him that sounded good to me. He will send us copies of the appraiser's reports. I gave Dave Don Lawrie's name as our contact person.

John

Head, Proj. Dev. Branch
Design and Construction

cc: D. Lawrie
W. Carlsen

JLR:mw

File: Permits, East Zone
Ruby Creek
White Road
Nly of Tully Road

X-File: East Pipeline

Re: 84" CIPP-White Road Improvements
80A227B, 80P227B

June 18, 1980

Mr. Bill Fisher
Ruth and Going
Post Office Box 26430
San Jose, California 95159

Dear Bill:

This is in reference to your letter of May 29, 1980 regarding the proposed Ruby Creek culvert in the Lake Cunningham area.

Your letter is an accurate summary of our phone conversation of May 21, 1980.

The City of San Jose's Standard Specifications for Cast-in-Place Pipe are satisfactory except concrete should be designed for an ultimate concrete stress of at least 4,000 psi.

Please send final plans and specifications for our review and issuance of a permit.

Very truly yours,

ORIGINAL SIGNED BY
W. F. Carlsen
Division Engineer
Design Coordination Division

cc: H.M.H. Engineering
Attention James Harper
Mr. Bob Kenton
Design and Construction Division
City of San Jose
J. Richardson; W. Carlsen; D. Erling; A. Codiroli; E. Sullivan

WFC:bp

5/30 orig EHS w/A
w/ C

RUTH AND GOING, INC ARCHITECTURE ENGINEERING PLANNING

919 THE ALAMEDA P.O. BOX 26430 SAN JOSE, CALIFORNIA 95159 (408) 297-8273

Leo W. Ruth, Jr., C.E., M.E.
E. Jackson Going, Jr., C.E.
William H. Bender, S.E.
Harry N. Lalor, C.E.
Donald C. Landberg, C.E.
Albert W. Ostoff, A.I.A.

May 29, 1980 15,982-830, 930

Mr. Bill Carlsen
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Re: 84" Storm Sewer - Ruby Creek at Lake Cunningham

Dear Bill:

This letter is to confirm our 'phone conversation of 5-21-80, in which we discussed the construction of the Ruby Creek culvert in the Lake Cunningham Area (reference your letter of 4-25-80).

The following items were agreed upon:

1) We can reduce the requirment for a straight section of pipe at the outfall structure from 40 feet to 25 feet in length.
2) The access road to the channel bottom should be 20 feet wide. The "flat area" and the access road should be hydra-seeded or protected from erosion by some other suitable method of protection. No other special surface treatment shall be required.
3) Radii in the pipe structure will not be required where angle points at manholes are 10° (degrees) or less.
4) The minimum cover requirement shall be 2 feet for cast-in-place pipe. If cover is less than 2 feet in roadway areas - a concrete cap shall be required.
5) The City of San Jose requires that their specifications be used on this project. If the SCVWD wishes to amend the specifications through the use of Special Provisions we should be provided with such necessary amendments. (Attached is a copy of the City of San Jose's Standard Specifications for Cast-in-Place Pipe.)
6) The City of San Jose will provide inspectors for the job and the SCVWD will be provided with test results as required by the Special Provisions (see #5).
7) The General Contractor for this project will be required to protect the subject pipe from any damage during construction through the use of a special pay item in the contract for such protection.

Please review the City of San Jose Standard Specifications enclosed herein, and provide us with the special provisions you will require for the construction of the cast-in-place pipe and/or related structures.

'80 MAY 30 PM 12:31
SANTA CLARA
VALLEY WATER DISTRICT

I will assume that this letter is an accurate summary of our telephone conversation unless I receive a letter which further clarifies these items by June 9, 1980. If there are any questions, please call me at our office (297-8273).

Sincerely yours,

WILLIAM D. FISHER

WDF:dm
Attachments

cc: Mr. Abed Khouzan
Mr. Harry N. Lalor

'80 MAY 30 PM 12:31

SANTA CLARA
VALLEY WATER DISTRICT

May 27, 1980

Mrs. Jean Glick
2457 Klein Road
San Jose, California 95148

Dear Mrs. Glick:

We have now prepared some materials to illustrate what the proposed Ruby Creek sediment control facility would look like. We have a color photograh on which we have superimposed the proposed "Grasscrete" bottom lining (brochure enclosed). We have also installed a section of "Grasscrete" here at our District office.

Knowing of your interest in this project, I have asked Bill Carlsen to make arrangements with you to see these items and to bring you up to date on the requirements for the Klein and Tully Roads work, the requirements for the culvert work at Klein Road upstream of the proposed basin and plans for the onsite residential development.

Any other persons that you know are interested in this project are welcome to join you in this or subsequent briefings. I would only caution that Attorney Bruce Tichinin has stated that he does represent some people in this matter. Those people ought to advise Mr. Tichinin if they wish to contact us.

Sincerely yours,

ORIGINAL SIGNED BY

George Korbay
Design and Construction Manager

Attachment

cc: Messrs. Jim Harper, HMH, Inc.
Rob Miller, K&B
Anthony Varni, Attorney at Law
J. Richardson, B. Carlsen, A. Henley
Bruce Tichinin, Attorney at Law

GK:mw

5/22 GJK W/A
ATH "

VARNI, FRASER, HARTWELL & McNICHOLS

ATTORNEYS AT LAW
22300 FOOTHILL BOULEVARD
P. O. BOX 570
HAYWARD, CALIFORNIA 94543
(415) 886-5000

ANTHONY B. VARNI
TH S. FRASER
HN S. HARTWELL
STEPHEN L. R. McNICHOLS, JR.
LIONEL A. RODGERS, JR.
BRIAN D. SEIBEL
BRUCE JOBSON
DAVID P. LANFERMAN

LIVERMORE OFFICE
2109 FOURTH STREET
LIVERMORE, CALIFORNIA 94550
(415) 447-1222

SOLANO COUNTY OFFICE
1416 TENNESSEE STREET
VALLEJO, CALIFORNIA 94590
(707) 642-1542

TRANSMITTAL MEMO

May 20, 1980

FILE NO:

REPLY TO: HAYWARD

TO: Mr. George Korbay
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

RE: Santa Clara Valley Water District Retention Basin/
Ruby Creek

ENCLOSURES:

Copy of my letter of May 20, 1980 to Bruce Tichinin, Esq.

SANTA CLARA
VALLEY WATER DISTRICT
'80 MAY 22 AM 11:11

REQUESTED ACTION:

For your information.

Your cooperation is appreciated.

Very truly yours,

VARNI, FRASER, HARTWELL & McNICHOLS

ANTHONY B. VARNI

ABV:avw
Enclosures

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (04-03-80)

No.	Name	Initial	1980	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GARRETT				
	HENLEY				
	WILSON				

No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Finance					Central Files			
	Flores					Francis					Library			
	Holley					Fujita					Lowrance			
	Melton					Simons					Marovich			
	Personnel					Smith								
	GARRETT				1	KORBAY					GILL			
	Bundy					Burger					Cotton			
	Bramblett				4	Carlsen					Cournoyer			
	Donnell					Hall					Dean			
					3	Lawrie					Ferguson			
	BEAUDET					McNeely					Sutcliffe South Co.Office			
	Erling				2	Richardson					Watson			
	Kriege					Wilson (Bruce)								
	Pardini													
	Regadanz				1									
	Sanchez													

Action Codes
A. Rush
B. Contact Me
C. Follow-up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare response
L. Coordinate

Remarks:

ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

VARNI, FRASER, HARTWELL & McNICHOLS
ATTORNEYS AT LAW
22300 FOOTHILL BOULEVARD
P. O. BOX 570
HAYWARD, CALIFORNIA 94543
(415) 886-5000

ANTHONY B. VARNI
[illegible] FRASER
[illegible]ARTWELL
STEPHEN L. R. McNICHOLS, JR.
LIONEL A. RODGERS, JR.
BRIAN D. SEIBEL
BRUCE JOBSON
DAVID P. LANFERMAN

LIVERMORE OFFICE
2109 FOURTH STREET
LIVERMORE, CALIFORNIA 94550
(415) 447-1222

SOLANO COUNTY OFFICE
1416 TENNESSEE STREET
VALLEJO, CALIFORNIA 94590
(707) 642-1542

REPLY TO: HAYWARD

May 20, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
17575 Monterey Street
Morgan Hill, California 95037

Re: Santa Clara Valley Water District Retention Basin
Ruby Creek

Dear Bruce:

My file does not accurately identify the property owners that you represent with regard to the Santa Clara Water/ Ruby Creek Retention Pond. We are starting immediately to contact the property owners in an attempt to acquire the needed right-of-way. It would be appreciated if I could receive from you the name and address of each property owner that you represent.

Very truly yours,

VARNI, FRASER, HARTWELL & McNICHOLS

ANTHONY B. VARNI

ABV:avw

John Richardson

Ruby Creek Sedimentation Basin
79A1154, 79A1104, 70P1154, 79P1104

W. F. Carlsen

May 21, 1980

Don Lawrie and I met with Shari Leigh of New Directions Real Estate on May 19, 1980. She is representing Mrs. Ellis, who owns the property on the southerly side of Ruby Creek,just upstream from the proposed Tully Road extension.

She said that Mrs. Ellis is not opposing the project but is mainly interested in getting a fair price for the parcel. Ms. Leigh believes that if it wasn't for the extension of Tully Road and the proposed sedimentation basin that the parcel would be developable for a single building site. She is investigating this with the City of San Jose and is also consulting an appraiser. She is going to advise K&B that she is representing Mrs. Ellis.

ORIGINAL SIGNED BY

Division Engineer
Design Coordination Division

cc: G. Korbay
W. F. Carlsen
A. Codiroli
E. Sullivan
D. Lawrie

WFC:mw

W. Carlsen

File: City of San Jose Sub'd.
Ruby Creek
Ely of White Road
Sly of Tully Road

X-File: East Pipeline

Re: Specific Development Plan,
Lands of Langenberg
File PD 80-05-044
80A526, 80S526

May 22, 1980

Mr. Harry Mavrogenes
Planner III
City of San Jose
801 North First Street
San Jose, California 95110

Dear Mr. Mavrogenes:

We have reviewed the general development plan for Lands of Langenberg, File PD 80-05-044, sent to us on May 12.

The site is within the watershed of Ruby Creek and would be subject to flooding therefrom in the event of the 1% flood. The site is in "Phase 3" of the Evergreen Development Policy area and subject to the flood protection criteria contained therein.

By letter of May 1, copied to Don Uyeda and Bob Kenton of your City, we have commented on preliminary plans for the improvement of Ruby Creek from just westerly of White Road to the sedimentation basin in conjunction with Tract 6377 being designed by HMH Engineering.

The portion of Ruby Creek from just westerly of White Road to the Ruby Creek channel constructed as part of the Lake Cunningham Project is being designed by Ruth & Going and will be installed in a pipe in conjunction with the White Road project. Our letter of April 25, 1980 to Mr. Bill Fisher of Ruth & Going forwarded our comments and recommendations in this project.

The existing District East Pipeline is located 35 feet westerly of the center line of White Road and is a 36-inch treated water high pressure pipeline. The pipeline has about 2.5 feet to 3.5 feet of cover. Plans for any work within 10 feet of the center line of the pipe should be sent for our approval and issuance of a permit.

In accordance with District Ordinance 75-6, the owner should show any existing well(s) on the plans and inform us regarding their proposed use. Please contact Mr. Zozaya at 299-2454 for information about well permits.

Sincerely yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Charles Davidson Company
90 East Gish Road
San Jose, California 95112

Engineering Services Division
City of San Jose

J. Richardson
W. Carlsen
A. Codiroli
R. Pardini
E. Sullivan

WFC:kj

W. Carlsen —
B. Goldhan —

May 15, 1980

Mr. Robert G. Miller, Senior Vice President
Kaufman & Broad of Northern California, Inc.
6379 Park Avenue
Dublin, California 94566

Dear Rob:

As we discussed, here are two copies of the amended and so executed agreement between us for installation of the Ruby Creek project.

As we have discussed, the Board agrees to consider condemnation as a means of acquiring the necessary property rights only upon their finding that your company has exhausted all other possibilities of acquisition.

Our recent comments on your previously submitted plans demonstrate that we want to do everything possible to minimize impacts of the project to the surrounding community. If, in your contacts with neighbors or others, any other possibilities present themselves, do not hesitate to bring them to our attention.

If agreeable, please initial the amended Section 2 under "Agreement" and return one copy to us.

Sincerely yours,

ORIGINAL SIGNED BY

George Korbay
Design and Construction Manager

Attachment

cc: Mr. Jim Harper
HMH, Incorporated
A. Henley
S. Ekstrand
D. Lawrie
J. Richardson

GK:mw

W. Stiles

5/5/90

Ruby Creek Sedimentation Basin
Revegetation List

Trees:

knobcone pine (Pinus attenuata)
coast live oak (Quercus agrifolia)
california black oak (Quercus kelloggii)
scrub oak (Quercus dumosa)
monterey cypress (Cupressus Macrocarpa)
blue elderberry (Sambucus mexicana)
digger pine (Pinus Sabiniana)

Shrubs:

toyon (Heteromeles arbutifolia)
fremont saltbush (Atriplex lentiformis)
holly-leaved cherry (Prunus ilicifolia)
coyote brush (Baccharis pilularis ssp consanguinea)
blue blossom (Ceanothus thyrsiflorus)
pyracantha (Pyracantha "Santa Cruz")
sugar bush (Rhus ovata)
california coffeeberry (Rhamnus californica)

Item 4 May 13, 1980 Agenda

Mrs. Hazel Hall
2469 Klein Rd.
San Jose, Ca. 95148

Mr. Richard Bibby
2443 Klein Rd.
San Jose, Ca. 95148

Mr. Hubert King
2538 Klein Rd.
San Jose, Ca. 95148

Mr. Walter Kampfen
2430 Klein Rd.
San Jose, Ca. 95148

Jean Glick 238-0663
2457 Klein Rd.
San Jose, Ca. 95148

Marie Inderbitzin
2496 Ruby Ave.
San Jose, Ca. 95148

Mr. Bill Ellis
3377 Valencia
San Bernardino, Ca.
92404

(1) Clerk

AGENDA MEMORANDUM

CONFORMED COPY

AGENDA DATE 5/13/80 ITEM NO. 4 UNIT Design & Construction

ZONE E PROJECT NO. _____ NAME Ruby Creek

SUBJECT: Agreement with Kaufman & Broad of Northern California Inc. for Construction of Ruby Creek and Related Facilities.

#A0439

EXPLANATION:

Kaufman & Broad has executed a proposed form of agreement of which a copy is attached for review. The draft was prepared by District Counsel.

RECOMMENDATION: That the Chairman be authorized to execute the agreement.

AUTHORIZED

MAY 13 1980

#A0407

File: 4019AA
Ruby Creek

AGREEMENT

SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California, hereinafter "District", and

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC., a California Corporation, hereinafter "Company",

AGREE this 13th day of May, 1980 as follows:

RECITALS:

A. Company is preparing to build certain flood control and related facilities (hereinafter "the project") upon certain lands. The project is shown on Exhibit A, so marked and hereunto attached.

B. Upon completion of construction of the project in accordance with District approved plans and specifications, the same will become the property of District and will be put to a lawful District purpose, to wit, as a sediment control facility together with all necessary appurtenances.

AGREEMENT:

1. Upon receipt of necessary approvals of governmental agencies having jurisdiction, Company will construct, or secure construction of, the project in strict accordance with District approved plans and specifications therefor. Company will in good faith use all reasonable means to acquire by negotiation and agreement the property rights necessary for such construction. Company will inform District of all efforts made in connection with such acquisition.

2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights.

3. Company will pay, promptly upon receipt from District of itemized invoices therefor, all costs of such acquisition incurred by District.

4. Costs so to be paid by Company shall include legal, engineering, appraisal, and administrative costs reasonably required by such acquisition and actually incurred therein.

5. Promptly upon completion of construction of the project pursuant hereto, all right and property therein and to the said property rights therefor shall be granted and conveyed by Company to District.

WITNESS our hands the day and year first above written.

SANTA CLARA VALLEY WATER DISTRICT

MAY 13 1980

By Linda Peratta
Chairman of the Board of Directors
"District"

ATTEST: SUSAN A. EKSTRAND

MAY 13 1980

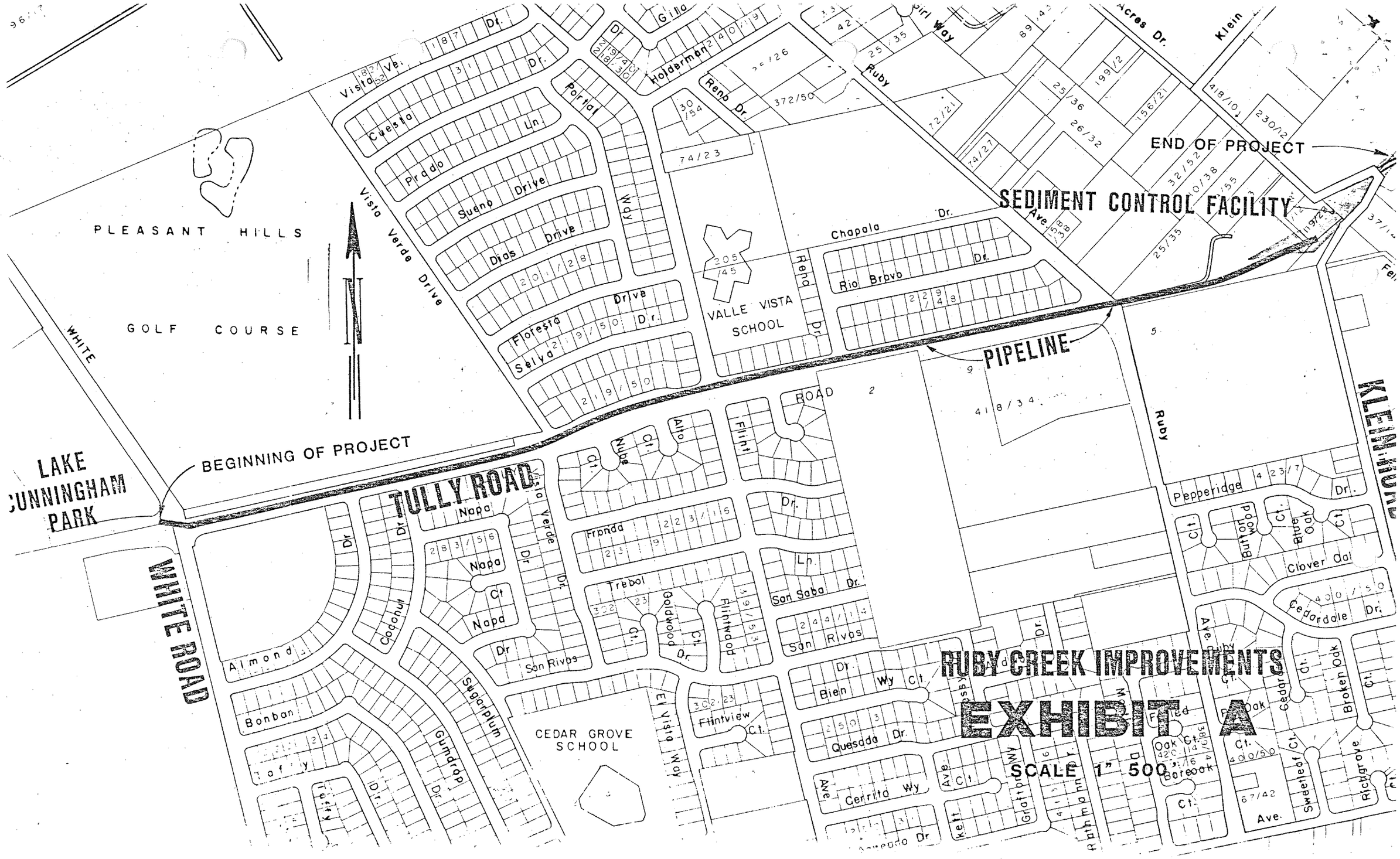
Susan A. Ekstrand
Clerk of the Board of Directors

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC.

By [illegible] 5/8/80

By _____

"Company"


RUBY CREEK IMPROVEMENTS
EXHIBIT A
SCALE 1" 500'
END OF PROJECT
SEDIMENT CONTROL FACILITY
PIPELINE
BEGINNING OF PROJECT
PLEASANT HILLS
GOLF COURSE
LAKE CUNNINGHAM PARK
WHITE ROAD
TULLY ROAD
KLEIN ROAD
VALLE VISTA SCHOOL
CEDAR GROVE SCHOOL
Vista Verde Drive
Ruby
Chapala Dr.
Rio Bravo Dr.
Renb Dr.
Holdermann
Portal Way
Cuesta Ln.
Prado
Suenb Drive
Dias Drive
Floresta Drive
Selva Dr.
Napa
Alto
Flint
Fronda
Trebol
Goldwood
Flintwood
San Saba Dr.
San Rivas
Almond
Bonbon
Toffy
Codorniz
Sugarplum
Gumdrop
Flintview Ct.
El Vista Way
Bien Wy Ct.
Quesada Dr.
Cerrita Wy
Graftpr Wy
Pepperidge Dr.
Burlwood Ct.
Blue Oak Ct.
Clover Dal
Cedardale Dr.
Broken Oak Ct.
Sweetleaf Ct.
Richgrove
Bareoak Ct.
Oak Ct.
Ave.

MR LLIAM F CARLSEN

STAFF

DISTRICT BOARD OF DIRECTORS
ARTHUR T. PFEIFFER—DISTRICT 1
PATRICK T. FERRARO—DISTRICT 2
ROBERT T. SAPP—DISTRICT 3
MAURICE E. DULLEA—DISTRICT 4
JAMES J. LENIHAN, VICE CHAIRMAN—DISTRICT 5
LINDA PERALTA, CHAIRMAN—AT LARGE
SIG SANCHEZ—AT LARGE

JOHN T. O'HALLORAN
GENERAL MANAGER

SUSAN A. EKSTRAND
CLERK OF THE BOARD
TELEPHONE (408) 265-2600

AGENDA

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY SAN JOSE, CALIFORNIA 95118

BOARD OF DIRECTORS MEETING

INFORMATION AND COPIES OF SUPPORTING MATERIAL ON THESE AGENDA ITEMS ARE AVAILABLE FOR PUBLIC USE AND REVIEW AT NO COST IN ROOM 103 (ACROSS THE HALL FROM THE BOARD ROOM).

May 13, 1980

9:00 a.m.

1. Roll Call.
2. Approval of Minutes - April 15 and April 22, 1980.
3. Real Estate

   Motion - Right of Way Agreement with Los Altos School District, Permanente Diversion Channel.
4. Agreement with Kaufman and Broad of Northern California, Inc., for Construction of Ruby Creek and Related Facilities.
5. Proposed Cost-Sharing Agreement with the Cities of Palo Alto and Menlo Park for the Design and Construction of Bank Stabilization Measures at an Existing Footbridge Near Waverley Avenue, San Francisquito Creek.
6. Deferred Compensation Plan and Proposed Resolution.
7. Information Items
   a) 1980 Reservoir Operations.
   b) Minutes - San Felipe Committee - March 20, 1980.
   c) Letter Dated May 5, 1980 from Frances K. Bucknam.
   d) Report of Bills Paid - Week Ended May 2, 1980.
8. Board Members Oral Reports on Activities.
9. Other Business.

9:15 a.m.

10. Oral Report by Special Counsel re Coyote Cabins Cases.

9:30 a.m.

11. Time Open For Public Comment on Any Subject Not on Agenda.

:00 - 10:15 a.m.

Coffee Break - Public Welcome.

12. Adjournment.

May 1980

SUNDA	MONDAY	TUESDAY	WEDNES AY	THURSDAY	FRIDAY	SATURDAY
				1 7:45 pm 70 W. Hedding Bd/Sup Chmbrs - IGC Mtg	2	3
4	5 2 pm Bd Rm - Mtg Ag Wtr Adv Comm	6 9 am Board Mtg	7 4 pm 70 W Hedding Gen Plan Adv Comm	8 Morgan Hill IGC Mtg - 6:30 pm Flying Lady Rest	9	10
11	12 4 pm SDA Mtg Bd of Directors -CANCELLED-	13 9 am Board Mtg	14 10 am RWTPlant Cen/NoCen FC Zone Advis Comm Mtg	15 9 am Bd Rm - East FC Zone Advis Comm Mtg SDA Mtg - Gen Membrship -CANCELLED- 2 pm RWTP - SCVWD Water Commission Mtg	16	17
18	19	20 9 am Board Mtg 7:30 pm Campbell Los Gatos Creek Strmside Park Comm	21 10 am Los Altos Northwest FC Zone Advis Committee Los Angeles - ACWA 1980 Spring Legislative Workshop Conference 4 pm 70 W Hedding Gen Plan Adv Committee	22 10 am Gilroy Cty Ccl Chambers South FC Zone Advis Comm Mtg Los Angeles - ACWA 1980 Spring Legislative Workshop Conference	23 Los Angeles-ACWA 1980 Spring Legis Workshop Conf 9 am Bd Rm - Wtr Reuse Advisory Committee CHANGED TO 5/30/80	24
25	26 Holiday	27 9 am Board Mtg	28	29	30 9 am Bd Rm - Wtr Reuse Adv Comm	31

5/ 8 /80
New Items *********

Santa Clara Valley Water District
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

OVER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3 9 am Board Mtg	4 4 pm 70 W Hedding Gen Plan Adv Comm	5 7:30 pm 70 W Hedding Bd/Sup Chmbrs - IGC Mtg	6	7
8	9	10 9 am Board Mtg	11	12	13	14
15	16	17 9 am Board Mtg 7:30 pm Campbell Los Gatos Creek Strmside Park Comm	18 4 pm 70 W Hedding Gen Plan Adv Comm	19	20	21
22	23	24 9 am Board Mtg UC Santa Barbara CAREW - 7th Annual Conf	25 UC Santa Barbara CAREW - 7th Annual Conference	26 UC Santa Barbara CAREW Annual Conf SDA Mtg - Gen Membrship	27 UC Santa Barbara CAREW Annual Conf	28
29	30					

5/ 8 /80
New Items **********

June 1980

Santa Clara Valley Water District
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

4-29-80

File BAC

Visit to Santa Clara Water
Saw Bill Carlsen
also Win & Don

William F. Carlsen
Division Engineer
Design Coordination Division

Santa Clara Valley Water District
5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600
x 234

1. Immediate project on Ruby Creek -- in hills east of San Jose. Flood control channel has erosion problem near road. New homes nearby K&B is developer. Homeowners don't want solid concrete; lawsuit threatened.
2. Plan would be to do GC in buff or tan color; plant grass, but don't irrigate so it would all blend into adjacent dry grass in dry season.
3. Plan is to get them accurate estimate ASAP. They will provide subgrade.
4. Send letter to Carlsen:
   a) Firetrack letter & photo
   b) Chromix color chart
   c) Proprietary spec
   d) List of jobs in SF Bay area.
5. Carlsen goes to London July 23-27 -- get addresses of jobs.
6. Don wants a demo area 4 feet wide x 8 or 10 ft up a 1:2 slope. They have trouble believing slope capability. I told him we could provide a sample of that size no charge.
7. Lots of other projects possible with these people.

4-29-80

Channel Design (Page 2)

Square Footage

(1) Length of Channel is $9\frac{13}{16}$" Scale is 1" = 40'

9.8125 × 40 = 392.5 ft.

(2) Bottom

6.67 ft. is GC	=	83.375 %
1.33 ft. is solid concrete	=	16.625 %
8.00 ft. total width	=	100.000 %

Sq. Ft of GC	= 392.5 × 6.67	=	2618	sq. ft.
Sq. Ft. of solid	= 392.5 × 1.33	=	522	sq. ft.
Total Bottom Area		=	3140	sq. ft.

Concrete 2618/96 = 27 yds

522/54 = 10 yds

Total Concrete = 37 yds - 6" thick, no deep edges

(3) Sides (2)

20 ft. is GC

2.33 ft. is solid

22.33 ft. total width

Sq. Ft. of GC	= 392.5 × 20	=	7850	sq. ft.
Sq. Ft. of Solid	= 392.5 × 2.33	=	915	sq. ft.
Total Side Area	=		8765	sq. ft.

Channel Design (Page 3)

Concrete For 6" Thick Sides

7850/96 = 82 yds

915/54 = 17 yds

Total Concrete = 99 yds - 6" thick, no deep edges

Concrete For 4" Thick Sides

7850/144 = 55 yds

915/81 = 12 yds

Total Concrete = 67 yds - 4" thick, no deep edges

SUMMARY

	Sq. Ft. Area			Yards Concrete	
	GC	Solid	Totals	6" Sides	4" Sides
Bottom Ditch (all 6")	2618	522	3140	37	37
Sides Ditch (6" or 4")	7850	915	8765	99	67
Culvert Inlet (all 6")	908	226	1134	14	14
Culvert Outlet (all 6")	260	64	324	4	4
Totals	11,636	1727	13363	154	122

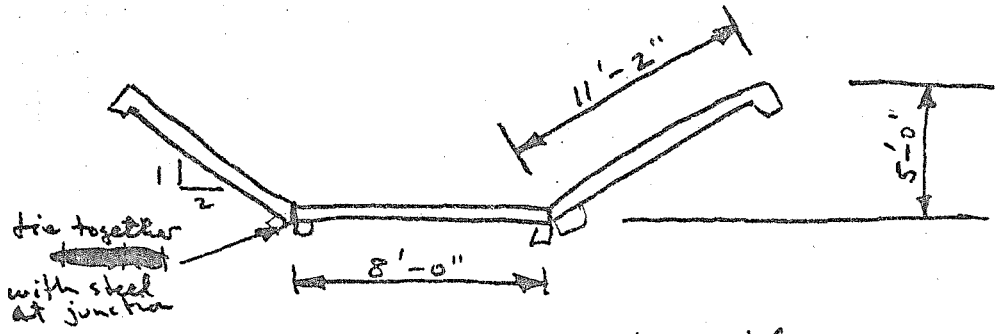
Steel req'd = 3 lineal ft. per sq. ft. of slab

= 3 × 13363 = 40,089 lineal ft. #3 bar

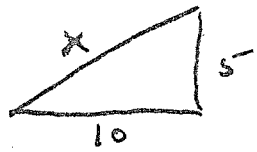
Channel Design 4-29-80

Ruby Creek Project

Santa Clara Valley Water District



Slope is 1 vertical in 2 horizontal both sides



$$x^2 = 10^2 + 5^2$$

$$x^2 = 125$$

$$x = 11.18 \text{ feet}$$

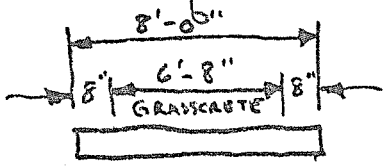
$$x = 11'-2''$$

Quote as 6" slab throughout

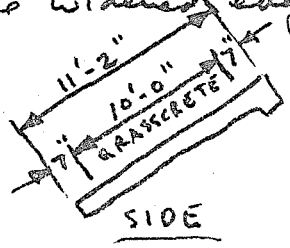
As alternate, quote a deduct for changing sides only to 4" slab

Use #3 rebar throughout

Details of slab to provide widened edge of solid concrete



BOTTOM



SIDE

Santa Clara Valley Water District

IGN & CONSTR. UNIT
301 (01-19-76)

MEMO ROUTING SLIP

No.	Name	Info	Action	Initial
1	G. Kirkbey			GK
2	M Henley			MTH
3	G. Kirkbey - for reply			GK
4	M Richardson			MR
5	W. Carlson			
6				
7	for your info & file			Carol Hagen
8				4/5/7

Comments:
We would like to advise K&B that Mrs Glick told us during week of 4/28 that she is not represented by Trichinin. Pls advise. GK 5/2

From: [illegible]

Date: May 80

G. Kordony

9

May 5, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Bruce:

Please refer to your letter to me of February 12, 1980 with regard to the proposed Ruby Creek facility of this agency. You advise in the initial paragraph that you represent Jean Glick among others.

During the week just past we understood Mrs. Glick to state to our Design and Construction section that you do not represent her.

I will be glad to have your confirmation or amendment of the February 12 statement.

Faithfully,

ORIGINAL SIGNED BY

Albert Thomas Henley
General Counsel

cc: George Xerbay
Design & Construction Manager

ATH:scs

2/13 ATH LCF BHG WFC NLK EHG

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

February 12, 1980

Albert T. Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision File No. T78-1-7.

Dear Mr. Henley:

Please be advised by this letter that I represent the following owners of real property in the general area of the Ruby Creek project referred to above: Hazel J. and Kenneth H. Hall, Lewis and Jean Glick, Richard and Patricia Bibby, David C. and Debra J. Zozaya, and Hubert E. King.

It is my understanding that the City of San Jose, and the Santa Clara Valley Water District will require that the subdivider who constructs the subdivision referred to above also construct a sediment pond at the headwaters of Ruby Creek in the area of the proposed subdivision and my clients' property, as a condition of subdivision map approval. This facility is being required pursuant to the City of San Jose Evergreen Policy, Phase III and plans prepared previously by the Water District for the area.

From a discussion at which I, my clients, James Harper, a consulting engineer for HMH, Incorporated representing the subdivider (Kaufman and Broad), and Mr. Carlson, Mr. Goldner and Mr. Lawrie of your staff were present, it is my understanding that the Water District believes that it is possible from an engineering standpoint to place the sediment pond facility either on the property to be subdivided, or on my clients' property, and that plans to place the facility on my clients' property have not been reviewed for their adverse impact upon the environment, potential mitigation measures, or alternative project sites or configurations under the California Environmental Quality Act.

My review of the City of San Jose file on this subdivision discloses that the City Council of the City of San Jose never reviewed the tentative map in this matter, nor exercised its discretion with respect thereto, but that it is currently deemed to stand approved pursuant to the provisions of

Tichinnin does not represent those circled

SCALE: 1" = 60'

HMH

DETAIL "B"
N.T.S.

KAMPFEN
Escrow No. 1-7224

HALL
Escrow No. 1-7292

KLEIN

DEPT. OF VET. AFFAIRS
Escrow No. 1-7221
0.781 ± Ac. Gr.

Biby ?

GLICK
Escrow No 1-7222
0.839 ± Ac. Gr.

INDERBITZIN
Escrow No. 1-7220

ROAD

HALL
Escrow No. 1-7225
1.235 ± Ac. Gr.

SOHN

KING
Escrow No. 1-7226
1.988 ± Ac. Gr.

TORREZ

GOMES

ELLIS
Escrow No. 1-7223

DETAIL "A"

DETAIL "C"
Sheet 2

Pala Rancho Line

Future Street Line

10' Future Street Line

P.G.&E. Easement 823 O.R. 158

Pala Line R/W 2452 O.R. 1

5' wide utility easement 2280 O.R. 519

3050 O.R. 600 4' Pipe Line R/W

Santa Clara County of

NOTE
See Sheet 2 for details of Parcels 4 thru 16, 19 thru 21.

90 E. G
Scale

BOUNDARY OF SURVEY CERTIFICATE

Colson

Basins catch creek overflow

Residents protest ponds planned near them

By ANNE HOUGHTELING

Residents living near small Ruby Creek, a tributary to Silver Creek in the Evergreen area, don't like what the water district has in mind for the creek . . . or their property.

As part of its flood control plan, the Santa Clara Valley Water District has encouraged the building of retention basins on the East Side's many small creeks. The basins catch overflow and provide a pond for sediment to settle instead of flowing on to clog drain pipes.

Ruby Creek running alongside Klein Road in the foothills is a good candidate for a basin, according to the water district.

Kaufman & Broad, a developer planning a 78-home subdivision nearby, can excavate the basin when it builds on extension of Tully Road, the water district has decided.

If five residents near Ruby Creek don't sell portions of their property to the developer, condemnation proceedings will be started, the water district recently voted.

Klein Road residents are crying foul, claiming that the water district's decision favors the developer.

The construction should be done on the property of the developer, Kaufman & Broad, argues Hazel Hall, president of the Klein Road neighborhood association.

"There's a perfect area on the developer's property for the sediment pond," Hall argues. "If it's put on their land, they're only losing a bit of their land. If it goes here, it'll ruin the whole thing."

Hall and members of the neighborhood association have hired an attorney who claims the water district would be misusing its condemnation powers if it acts against the residents.

Attorney Bruce Tuchinin of Morgan Hill says K & B and the water district are "riding roughshod" over his clients just so none of the developer's land will be sacrificed.

"Basically," Tuchinin charges, "it's a case of a local government agency hopping into bed with a local developer."

Condemning property should by law only be done to benefit by public and in this case it would only benefit a private developer, Tuchinin says.

The design and construction control manager of the water district, George Korbay, says that the water district's environmental analysis has found the developer's land would be a poor site for the pond. If built on K & B property, many more people would have to look at it, he says.

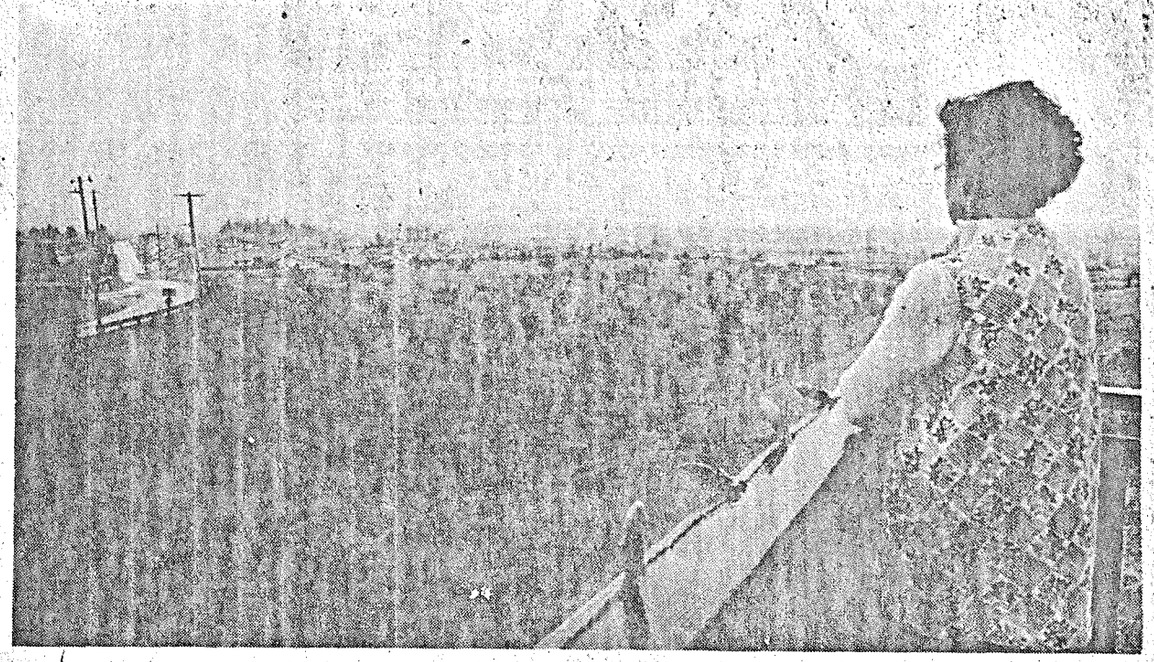
"There are five of them (on Klein Road) and how many of them in the development in the future?" Korbay asks rhetorically.

Under policy set up by the city of San Jose, developers like K & B have to complete road improvements adjacent to their subdivisions, Korbay says. Since K & B has to build the Tully Road extension, he says, it just makes sense to build the pond on Klein Road near the extension.

Building the pond using the road extension as a ready-made dam makes engineering sense, he says.

But Hall and her neighbors are determined the water district won't have its way.

Before any of their property is taken over, "We'll get people to stand in front of the bulldozers," she says.



A KLEIN ROAD resident looks down from her porch to the ravine cut by Ruby Creek. Residents and the water district are at odds over where a retention basin belongs.
Photography by Amy Huntoon

Principal will teach again

Notes from the East Side Union High School District:

• Henry Rubio, Foothill High School Continuation principal, has resigned his position to resume teaching art at the school. Rubio says health and family considerations prompted the change.

• The school board has approved a Title IV Indian Education Program application that makes funds available to the district from the Federal Office of Education. The money will be used to provide educational services to approximately 450 native American students in the areas of counseling and guidance, academic assistance and cultural and management programs.

• The district has started an industrial education curriculum which includes the social, consumer, managerial and cultural aspects of the industry. The program provides classroom materials which help prepare students for entry level jobs.

People, places and events

Work[illegible]op for job hunters

[illegible] assistant analyst with the City of Santa Clara, will speak about city public ad-

W. Carlsen

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

File: Permits, East Zone
Ruby Creek
Tully Road Extension
and Klein Road

Re: Preliminary Plans for Creek
Construction and Retention Basin
79A1154, 79A1104, 79P1154, 79P1104

May 1, 1980

Mr. Jim Harper
HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Jim:

This is in reference to your preliminary plans for construction of Ruby Creek. We request that the following changes and additions be made:

1. Sections 3 and/or 5 of the soil consultant's recommended earthwork specifications should be strengthened to require benching into competent material on slopes steeper than 5H:1V when placing fill on them. The design should call for a key for the fill slopes in the basin to be combined with clean out of vegetation where fill is to be placed. Just roughening of the surface, as shown on the Drawings (Sections $\frac{A}{7}$, $\frac{B}{7}$, and $\frac{C}{6}$ is not acceptable.

2. The sediment basin lining should be changed so that there is an 8-foot flat bottom width with side slopes 2:1, or flatter, which extend 5 feet vertically from the creek bottom. The lining should be made of "Grasscrete" (30 ton design, 6 inches thick, as manufactured by the Bomanite Corporation). The concrete shall be colored with an earth tone additive. Typical specifications are attached. A suitable base should be provided under the bottom lining so it will support H-20 loading.

3. The inlet and outlet structures for the pipe under Klein Road should also be made of "Grasscrete" with the maximum slope of the headwall, endwall and side slopes 2 horizontal to 1 vertical. A 4-foot deep concrete cutoff wall should be installed at the upstream end of the lining. It should extend up the channel sides. The CMP under Klein Road should be 60-inch diameter with the invert 7.2 feet below the roadway elevation. The CMP should be asphalt-coated with a paved invert (25% of periphery). It should be mitered to conform to the headwall and endwall slope (2 horizontal to 1 vertical). The inlet length of 20 feet shown is satisfactory. There should be a guardrail installed at the top of bank on the upstream and downstream sides of Klein Road.

4. We recommend a guardrail be installed adjacent to Klein Road. Regarding a fence on the other side of the basin, we will leave this decision to be made by the property owners when the property settlement is made. If they desire a fence, we recommend it be a scenic type with pressure-treated wood posts, not higher than 42 inches. The fence should be installed 1 foot inside the right of way line. Right of way should be at elevation 331.0 except near Tully Road where it should extend about 5 feet back from the top of bank at the 2:1 cut slope for the access road and where it should be at the top of the "grasscrete" upstream and downstream of Klein Road.

5. The minimum elevation of Tully Road at the sedimentation basin should be elevation 333.7. The minimum elevation of the 21-foot x 6-foot emergency spillway should be elevation 330.5.

6. Maximum manhole spacing should be 400 feet. Manhole covers should be bolted when installed below elevation 130.

7. Where cast-in-place pipe is used, it should be designed, installed, and tested in accordance with the Standard Specifications for Public Works Construction 1979 edition written by the Southern California Chapter of the APWA as amended by the Los Angeles County Flood Control District amendment of July 1978. A copy of the cast-in-place pipe portion of these specs is included. Minimum pipe thickness for 1% flow velocities of less than 10 ft./sec. should be in accordance with State Department of Transportation specs, copy enclosed. Concrete should be designed for an ultimate concrete stress of 5,000 psi.

8. If cast-in-place pipe is used, a full time inspector must be present to monitor quality control of pipe. The inspector should perform standard concrete tests and wall thickness measurements as required by the attached specifications and keep construction and testing records. A weekly report detailing the progress of work and results of test cylinders and measurements should be sent to the District. This inspection should be provided by an independent consulting engineer as part of the construction contract.

9. The minimum cover for cast-in-place pipe under streets is 3 feet. The minimum cover for cast-in-place pipe is 2 1/2 feet in areas other than streets. Therefore, cast-in-place pipe could not be used from the beginning of the project to Station 17+06 unless the median is not to be crossed by traffic and is raised to meet the above criteria. Under White Road, RCP should be used. Minimum cover for RCP is 2 feet. If cover is less than 2 feet, a concrete slab is needed over the pipe. Please show final street and median grades on the plan.

10. From Station 17+06 to Station 28+86.47, the flow velocity is between 10 and 20 ft./sec., therefore, if cast-in-place pipe is used, the pipe thickness should be in accordance with the attached State specs plus 1/2-inch additional thickness to allow for the high velocity.

11. From Station 28+86.47 to Station 31+46.78 and from Station 34+34.79 to Station 47+01.05, and from Station 50+78.26 to Station 56+98.30, the flow velocity exceeds 20 feet per second. In this case, cast-in-place pipe is not acceptable and RCP should be used. The RCP should have 1/2-inch additional cover on the inside over the steel over that specified for the specific cover conditions when the flow velocity is between 20-30 ft./sec. When velocities exceed 30 ft./sec., there should be an additional 1-inch of additional cover. Flow velocities in RCP should not exceed 40 ft./sec.

12. The fill slope adjacent to Klein Road and Tully Road and any other unvegetated areas in the sediment control facility are to be hydro-mulched to control erosion and provide an aesthetic amenity. The attached specifications are recommended.

13. Top soil, in accordance with attached sheet on soil and chemical requirements, is to be used to fill the voids in the grasscrete. Seed and fertilizer from the attached hydro-mulching spec shall be hand or machine broadcast over the grasscrete and swept into the voids. The seed should be covered by approximately 1/2-inch of top soil. Seed mixture shall be the same as for the hydro-mulch except delete the shrubs (last 3 items) and double the grass seed application rate. Irrigation will be required until the seed mix is established.

14. Trees, shrubs and a suitable irrigation system should be installed outside the proposed District right of way adjacent to the proposed easement line through Ms. Glick's property if this is desired by the property owners.

15. The property required for the basin may be acquired either in fee or easement. The form of easement document to be used is attached.

We now intend to meet with the concerned property owners to present the above-described features and may be asking you to assist in that meeting.

For your information and comment, the attached excerpt from the Flint Creek permit will be part of the permit for this project.

Please send revised plans and specifications for our review.

Very truly yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Enclosures: APWA Specs
LACFC Addendum to APWA Spec; State Specs
Grasscrete Specs; Hydroseeding Specs
Top Soil Specs; Flint Creek Permit Excerpt
Sample Easement Deed

cc: Mr. Don Uyeda, Engineering Services Division, City of San Jose
Mr. Bob Kenton, Design and Construction Division, City of San Jose
Mr. Bill Fisher, Ruth and Going
G. Korbay; A. T. Henley; J. Richardson; W. Carlsen; D. Lawrie; B. Goldner; B. Tepel; R. Pardini; W. Stiles; D. Erling; A. Codiroli; E. Sullivan

WFC:kj

APWA Specs

Unless the plans for tunnels to be constructed in soil require the use of pressure concrete or gunite concrete for backfill, the contractor may use gunite sand for backfill.

Gunite sand shall be placed with a pneumatic gun in accordance with the requirements for placing gunite concrete except that no portland cement need be added. The contractor may add up to 100 pounds of cement per cubic yard (54.33kg per cubic meter) to improve placement stability at its option and expense. In either case, water sufficient to saturate the material and insure proper packing and minimize rebound shall be added to the mixture. The nozzleperson shall operate in the inmediate vicinity of the backfill face to insure compaction and complete filling of voids.

The contractor shall submit to the Engineer for approval, at least 30 days prior to backfill operations, a proposed mix design and method of placing concrete, including placing equipment. No pressure concrete backfill shall be placed until mix design, placement method, and equipment have been approved. If the approved mix cannot be readily pumped or placed by the contractor's placing equipment, additional water may be added, provided the water-cement ratio of the approved mix design is not exceeded.

The pressure concrete shall be placed by methods capable of forcing it into crevices and filling all void spaces in the tunnel. Unless the otherwise provided on the plans, the concrete backfill shall be placed under pressure by means of a "slick" line and pneumatic or positive displacement pumps.

The combined length of the slick line and delivery line shall not exceed the recommendation of the manufacturer of the concrete pump or, if no manufacturer's performance data is available, 150 feet (45.7m). The discharge end of the slick line shall be rigid conduit with a minimum length of 10 feet (3.05m). It shall be kept buried in at least 5 feet (1.52m) of fresh concrete during concrete placement. Concrete shall be pumped continuously during withdrawal of the slick line to eliminate voids.

306-3.8 **Pressure Grouting of Voids.** Where the Engineer has reasonable doubt that the tunnel void spaces are completely filled, the contractor shall pressure grout such locations as ordered through grout pipes to be installed either from the ground surface or from within the conduit. At least two grout holes will be required at each location to permit escape of air. The location of surface grout pipes may be adjusted as may be required, dependent upon traffic requirements on overhead streets.

Grout for filling voids shall be low pressure grout [less than 10 psi (68.9kPa)]. Neat cement grout shall be used except that large voids shall be filled with pressure concrete or grout containing sand.

Grout shall be placed by means of pumps of positive displacement or pneumatic type and capable of placing grout at pressures up to 100 psi (689.5kPa) unless otherwise approved by the Engineer. Grout shall be placed at pressures which are requisite for the conditions encountered, and will ordinarily be less than 10 psi (68.9kPa) except in cases where large cave-ins or other adverse conditions may require higher pressures.

Regardless of the materials or methods of backfilling or filling voids used, the Engineer shall reserve the right to require filling of void spaces known to remain by additional grouting. Such work will be deemed to have resulted from the contractor's operations and shall be done at its expense.

306-3.9 **Payment.** Unless the Special Provisions provide for unit prices for individual work items included in tunnel work, the lump sum or unit price per linear foot for tunnel as set forth in the proposal shall include full compensation for furnishing all labor, materials, tools and equipment and for doing all the work involved in making tunnel excavation; dewatering, furnishing, installing, backpacking, and maintaining tunnel supports, placing tunnel backfill, low pressure grouting, providing access shafts of portals including excavation, backfill and replacement of surface or other improvements, furnishing and installing pipe, and doing whatever else is appurtenant to tunnel construction within the limits shown on the plans and as specified herein. Unless otherwise specified, payment for tunnel excavation shall include the excavating of any type of material encountered. High pressure grouting required by the Engineer, and not resulting from an act or failure to act on the part of the contractor, will be paid for as extra work as provided in Subsection 3-2.

For pipe laid through tunnel access shafts, payment shall be made as provided in Subsection 306-1.6.

306-4 CAST-IN-PLACE NON-REINFORCED CONCRETE PIPE

306-4.1 **General.** These specifications cover cast-in-place non-reinforced concrete pipe intended to be used for storm drains.

Cast-in-place non-reinforced concrete pipe is conduit made of portland cement concrete cast monolithically in a properly prepared trench, using equipment specifically designed for such construction. The equipment the contractor proposes to use shall be approved by the Engineer, and the contractor may be required to furnish evidence of successful operation on prior work.

Cast-in-place pipe shall be constructed only:

1) In the presence of the Engineer, and

2) In ground capable of standing unsupported from the bottom of the trench to the top of the pipe without sloughing, or,

3) In fill when it can be demonstrated to the satisfaction of the Engineer that the fill will adequately support the pipe.

If the Engineer determines that soil conditions are unsuitable for constructing cast-in-place pipe, or that sloughing of the trench may occur to the extent that earth or other objectionable material could be included in the concrete, the contractor shall install reinforced concrete pipe or an acceptable alternate as directed by the Engineer. All costs for this substitution shall be borne by the contractor.

Unacceptable portions of cast-in-place pipe shall be replaced or repaired to the satisfaction of the Engineer at no additional cost to the Agency.

306-4.2 **Materials.** Concrete shall conform to the requirements of Subsection 201-1, except that:

1) It shall develop the 28-day strength specified on the plans, and

2) The slump shall be between 1 and 3 inches (25mm and 76mm).

The contractor shall be responsible for furnishing workable concrete with a minimum of 564 pounds of cement per cubic yard (334.6kg per cubic meter). The maximum aggregate size shall not exceed one-third the minimum wall thickness. Batch proportions shall be designed by the contractor and approved by the Engineer in advance of any work.

306-4.3 **Excavation.** Trenches shall be excavated on the alignment and to the grades shown on the plans. The subgrade shall be fine graded to the tolerances specified in Subsection 306-4.6.5. No concrete shall be placed unless the trench is within the specified grade and alignment tolerances.

The trench shall be wide enough to accommodate the equipment and provide the required wall thickness of the pipe. The bottom of the trench shall be shaped to serve as the outside form for the pipe. The trench must provide full, firm and uniform support over the bottom 210° of the pipe, which is referred to as the "trench form."

Where isolated rock is encountered within the trench form, it shall be removed. If the rock is too large to be removed by hand, all portions of the rock within 6 inches (152mm) of the lower 90° of the trench form shall be removed. The void shall be filled with concrete placed monolithically with the pipe or backfilled with compacted soil.

Where extensive rock is encountered, it shall be overexcavated and the area backfilled to provide a layer of compacted soil at least 6 inches (152mm) thick between the rock and pipe, unless otherwise directed by the Engineer.

At the time of concrete placement, all soils to be in contact with cast-in-place pipe shall be moist, but shall not contain standing, seeping or flowing water. Provisions shall be made to dewater the trench so that flowing or standing water is eliminated. At no additional cost to the Agency, the contractor may place a layer of 1 inch (25mm) maximum size rock 6 inches (152mm) thick at the trench invert to assist in water control.

306-4.4 **Placement**

306-4.4.1 **General.** Concrete placement shall be in accordance with Subsection 303-1.8 except as provided herein. The flow line grade and alignment of the finished pipe shall conform to the tolerances stated in Subsection 306-4.6.5.

The concrete shall be placed around the full circumference of the pipe in one operation by means of fixed forms and traveling forms. The internal fixed forms shall be of sufficient strength to withstand the vibrating or tamping of concrete. Workers shall not walk or stand on the placed concrete where the internal fixed forms are not of sufficient strength to prevent deformation. The concrete shall be vibrated, tamped or worked with suitable devices until the concrete has been consolidated and completely fills the forms.

Where junction structures are to be constructed, the pipe shall be continuous through the structure locations. The pipe shall be cut away to the specified opening prior to the final set of concrete. Alternate methods may be used as approved by the Engineer.

When placement is stopped for such time that initial set is likely to occur before placement resumes, a construction joint shall be made by squaring off the end of the pipe and inserting 24 inch (610mm), No. 3 dowels 1 foot (.30m) into the center of the pipe wall at approximately 18-inch (457mm) intervals.

Before placing operations resume from a construction joint, an excavation shall be made on each side of the joint which will be the form for a concrete collar with a minimum thickness of 1½ times the pipe wall thickness and a length of 4 times the pipe wall thickness centered on the joint. The joint shall be cleaned of laitance, foreign and loose materials before resuming concrete placement.

306-4.4.2 **Form Removal.** Internal fixed forms shall remain in place until the concrete is self-supporting, after which they may be loosened but shall not be removed until at least 6 hours after placement. As soon as possible thereafter, the forms shall be removed to facilitate inspection and prompt repair.

306-4.4.3 **Finishing.** The interior of the pipe shall be at least as smooth as a wood-float finish except for the form lap ridges permitted in Subsection 306-4.6.4.

306-4.4.4 **Curing.** Immediately after concrete placement, the exposed top portion of the pipe shall be cured by one of the following methods:

1) By placing a polyethylene film at least .0015 inch (.038mm) thick so as to completely cover the top surface.
2) By applying a curing compound conforming to Subsection 201-4 at a rate of at least 1 gallon per 150 square feet (3.79 liters per 13.94 square meters).
3) By using earth, sand or burlap, kept continuously wet, when such method is approved by the Engineer.

In order to minimize the concrete shrinkage, all openings in the pipe shall be covered for at least 5 days immediately after placement, except at locations where work on the pipe is required, and only during the period that such work is actually in progress.

306-4.4.5 **Repairing.** After the internal fixed forms have been removed, the inside of the pipe shall be inspected. All rock pockets, blisters, voids or similar defects shall be repaired immediately in a manner approved by the Engineer.

Subsequent to placement of the backfill, the contractor and the Engineer shall reinspect the inside of the pipe. Cracks less than 0.01 inch (.25mm) in width shall be painted with a cement paste. Transverse cracks 0.01 inch (.25mm) or more in width, and longitudinal cracks 0.01 inch (.25mm) or more in width and less than 12 inches (305mm) in length shall be repaired The method of repair and the material used shall be approved by the Engineer.

Longitudinal cracks exceeding 0.01 inch (.25mm) in width and 12 inches (305mm) or greater in length shall be cause for rejection of the cracked pipe. If such cracks occur intermittently in more than 25 percent of the length of any reach of pipe, the entire reach is subject to rejection. Reaches subject to rejection shall either be removed and replaced or shall be strengthened in a manner approved by the Engineer.

306-4.5 **Backfill.** Backfill for cast-in-place pipe shall be considered as starting at the top of the "trench form" defined in Subsection 306-4.3. The method of backfilling shall be subject to the approval of the Engineer. The equipment used in placing the backfill shall not cause damage to the

pipe or cause loads to be placed on the pipe which are in excess of design loads.

Backfilling will not be permitted over cast-in-place concrete pipe until the concrete attains at least the strength specified on the plans or in the Special Provisions. The contractor may elect to place backfill prior to the Engineer's 28-day strength tests, provided it can show to the satisfaction of the Engineer, that the required strength has been attained in accordance with Subsection 306-4.7.3.

Backfill shall be placed in accordance with Subsection 306-1.3.

306-4.6 Dimensions and Tolerances

306-4.6.1 **General.** The minimum size of cast-in-place pipe shall be 24-inch (610mm) I.D.

306-4.6.2 **Diameter.** The actual internal diameter at any point shall not be less than specified on the plans. If the diameter is found to be less than that specified, the work shall be stopped and the necessary adjustments made. The Engineer may require the pipe to be removed and replaced with pipe of the correct diameter.

306-4.6.3 **Wall Thickness.** The wall thickness at any point shall not be less than specified. Failure to meet the thickness requirements shall be cause for rejection. The grade and alignment shall be controlled so that the wall thickness of the pipe is symmetrical.

Wall thickness will be determined in accordance with Subsection 306-4.7.4, or when applicable, with Subsection 306-4.7.1.

306-4.6.4 **Offsets and Indentations.** Transverse and longitudinal form offsets, and form strut bearing plate indentations, shall not exceed ⅜ inch (9.5mm) for pipe with specified internal diameter of 72 inches (1829mm) or less, and ½ inch (12.7mm) for pipe with specified internal diameter greater than 72 inches (1829mm).

Offsets or indentations in excess of these limits shall be repaired as directed by the Engineer.

306-4.6.5 **Grade and Alignment.** Departure from and return to established grade shall not exceed ⅛ inch per linear foot (10.42mm per linear meter) and maximum departure shall not exceed 1½ inches (38.1mm). Maximum departure from established alignment shall not exceed 2 inches (51mm) on tangents and 4 inches (102mm) on curves. Departure from and return to established alignment shall not exceed ¼ inch per linear foot (15.8mm per linear meter).

If the departure exceeds the maximum allowed, the

work shall be stopped and the necessary adjustments made. The Engineer may require the affected portions of the conduit to be removed and replaced at the proper grade and alignment.

306-4.7 Test Requirements

306-4.7.1. Sequence of Sampling and Testing. Sampling and testing shall be performed in the sequence described herein. During the concrete placing operation, slump tests shall be performed, concrete cylinder specimens shall be molded for strength determination, and the thickness of placed material shall be determined. If the concrete does not meet the required 28-day strength, cores shall be obtained from the completed pipe. Cores shall be used to determine thickness and compressive strength. If the strength of these cores fails to meet the design requirements, the contractor may be required to perform load bearing tests as described in Subsection 306-4.7.6.

The Engineer will determine the number and location of the samples and tests. The location shall be identified by station, and where applicable, the angle from vertical measured clockwise facing up-station.

306-4.7.2 Slump Tests. Slump tests will be required for each set of three test cylinders and shall be in accordance with ASTM C 143.

306-4.7.3 Concrete Cylinders. Concrete cylinders shall be molded and cured in accordance with ASTM C 31 and tested in accordance with ASTM C 39, except as modified herein.

The responsibilities of the contractor and Engineer relative to concrete cylinders are as follows:

1) The Engineer will mold, cure and test concrete cylinders to determine if the concrete meets the 28-day strength requirement.

2) If the contractor elects to place backfill prior to the Engineer's 28-day strength tests, the contractor shall prepare and test six cylinders from the first 25 cubic yards ($19.11m^3$) of concrete, three cylinders from the next 25 cubic yards ($19.11m^3$); and, at the discretion of the Engineer three cylinders per 25 cubic yards ($19.11m^3$) of additional concrete. There shall be at least three cylinders made each day. The contractor may make additional cylinders as it deems necessary.

   Any changes in the concrete mix shall be cause for applying the requirements of the "first 25 cubic yards ($19.11m^3$)."

   Initial curing of the cylinders may be accomplished within the pipe in lieu of the requirements of ASTM C 31. The compressive strength shall be taken as the average strength of three cylinders tested at the same age except that if one cylinder indicates low strength and shows evidence of improper molding, curing or testing, the strength value may be based on the average of two cylinders. If two acceptable cylinders are not available, the contractor may take cores in accordance with Subsection 306-4.7.5.

   The contractor shall provide, at its own expense, all equipment, materials, supplies and labor for molding, curing and testing the concrete cylinders which determine the time at which backfill operations may be started. Preparing and testing of the cylinders shall be done in the presence of the Engineer, and all test data shall be made available to him/her upon request.

306-4.7.4 Thickness. The Engineer will determine the wall thickness of the pipe as follows:

1) The thickness at the top of the pipe will be measured by probing at approximately 50 foot (15.2m) intervals during placement of the concrete. The probe shall be forced through the concrete to make firm contact with the form and shall be held in a position normal to the surface when the measurement is taken. The probe shall be a ⅜-inch (9.5mm) round bar, at least 2 inches (51mm) longer than the wall thickness to be measured, rounded on one end with a tee handle on the other.

2) Thickness at the invert and springline will be measured through holes drilled by the contractor. The holes, which shall not be less than ¾ inch (19mm) in diameter, shall be drilled after the removal of the forms and within 72 hours of concrete placement.

   One hole shall be drilled every 50 feet (15.24m) and shall be located in either the invert or springline as determined by the Engineer. The Engineer may require additional holes on curves, to determine the extent of thin sections.

3) In lieu of drilling holes in the invert, the contractor may remove freshly placed concrete in the invert with a shovel, or other suitable tool, to expose the point of contact between the concrete and the trench form. The thickness will be measured along the vertical centerline of the section between a

straight-edge placed longitudinally on the concrete surface, and the point of contact. All such concrete removed shall be wasted, and the void filled with fresh concrete.

After measurement, the contractor shall patch all holes as directed by the Engineer. All costs of probing, drilling, removing, and repairing shall be borne by the contractor.

306-4.7.5 Concrete Cores. Cores, where required, shall be obtained from pipe and tested in accordance with ASTM C 42. The cores shall have a length-to-diameter ratio of not less than 1. The diameter of cores shall be at least 3 times the maximum size of the aggregate used in the concrete, except where the wall thickness is such that the length-to-diameter ratio will be less than 1, in which case the core diameter may be reduced to 2.5 times the maximum aggregate size used. There shall be at least four cores taken for each 200 linear feet (60.96m), or fraction thereof, of pipe represented by any cylinder that fails the required tests. Cores shall be taken at the following points at stations selected by the Engineer: One through the crown, one through the invert, and two in the lower half of the pipe 45° from the vertical. The Engineer may require additional cores at any location. The contractor shall patch all core holes in such a manner that the patch will be permanent, will not leak, and will have a smooth finish flush with the interior surface of the conduit. All costs of coring, testing and patching core holes shall be borne by the contractor.

306-4.7.6 Load Bearing. At least one load bearing test will be required for each 400 feet (121.92m), or fraction thereof, of pipe in the reaches where core test strength failures have occurred. The test locations shall be specified by the Engineer, and test sections will be taken from pipe that meets all requirements of the specifications except for concrete strength. The test shall be performed in the presence of the Engineer, and the contractor shall be responsible for all costs and risks involved. Failure of the test section shall be cause for rejection of the conduit in the reach involved.

The method and apparatus requirements for load bearing tests are as follows:

1) The test shall be performed with only the trench form providing bottom support. If the pipe has been constructed so that more than 210° is in contact with the natural soil, the trench walls shall be re-excavated to provide 210° of trench form without altering the existing bedded condition of the trench form.

2) The test section shall be completely separated from the adjacent conduit. The length shall be at least 4 feet (1.22m) and not more than 8 feet (2.44m).

(3) The test load shall be applied by use of a "sand box," consisting of a frame and bearing plate, in such a manner that sand, carefully placed in the sand box, forms a bedding symmetrically about the center line and over the entire length of the test section. The width of the bedding shall be 0.7 times the specified inside diameter of the pipe. The minimum thickness of the sand shall be 0.5 times the specified inside diameter.

4) The frame and bearing plate shall be sufficiently rigid so that they will distribute the load uniformly and will not deform under the loaded condition. The interior surfaces of the frame shall be smooth. The lower surface of the bearing plate shall be a true plane. Cloth or plastic film shall be attached to the inside of the frame along the lower edges to prevent the loss of sand through the gap between the pipe and the frame. This type of apparatus is described in ASTM C 76 and ACI Journal, Title No. 66-22.

5) The frame shall be properly located on the pipe test section and filled with sand. The sand shall be clean and graded so that it will pass a No. 4 sieve. The sand shall be struck off level and covered with the bearing plate. During the test, the bearing plate shall not contact the frame.

6) The load shall be applied symmetrically on the bearing plate until the total required has been attained. The pipe shall remain loaded until test results have been observed and recorded.

7) The applied load, in pounds, shall equal the test load multiplied by the length of the test section, in feet. The test load shall be calculated as follows:

For pipe constructed in streets:

$$\text{Test Load} = (127.5\ F + 1.15\ LL + 5.56T)\ OD + 34.0\ (ID)^2$$

For pipe constructed in easements:

$$\text{Test Load} = (95.1\ F + 1.15\ LL + 5.56T - 1.84\ OD)\ OD + 34.0\ (ID)^2$$

Where:

ID = Specified inside diameter of the pipe in feet.

T = Specified wall thickness of the pipe in inches.

OD = ID + 2T/12 = Outside diameter of pipe in feet.

F = Depth of cover on pipe in feet.

LL = Live load on pipe in pounds per square foot (Pa).

Depth of Cover (F) in Feet (m)	Live Load (LL) Streets lb/ft²	(kPa)	Easements lb/ft²	(kPa)
2	970	(46.44)	728	(34.86)
3	489	(23.41)	366	(17.52)
4	314	(15.03)	236	(11.30)
5	234	(11.20)	176	(8.43)
6	182	(8.71)	137	(6.56)
7	145	(6.94)	109	(5.21)
8	119	(5.70)	89	(4.26)
9	102	(4.88)	76	(3.63)
10	90	(4.31)	68	(3.26)
Over 10	Neglect		Neglect	

8) The total test load shall be supported by the test section without the development of any additional cracking.

9) After the satisfactory completion of the test, the contractor shall repair the opening resulting from separating the test section in a manner satisfactory to the Engineer.

306-4.7.7 **Acceptance.** The acceptance of any reach of pipe will be based upon a study by the Engineer of all available test results. Acceptance will not be mandatory based solely on the results of the load bearing test.

306-4.8 **Payment.** Payment shall be made in accordance with Subsection 306-1.6.

306-5 ABANDONMENT OF CONDUITS AND STRUCTURES

When sanitary sewer or storm drain conduits have been or are to be abandoned and are found to interfere with construction, the interfering portion shall be removed and the remaining open portion securely sealed. Where the greatest internal dimension of the conduit is 4 feet (1.22m) or less, the seal shall consist of a wall of concrete not less than 6 inches (1.52mm), thick or an 8 inch (203mm) wall of brick and mortar. For larger openings, details of the seal will be shown on the plans.

When a sanitary sewer or storm drain is to be abandoned within specified limits, all structures and appurtenances within said limits shall also be abandoned.

When catch basins or manholes are to be abandoned, the upper portion shall be removed to a depth of at least 1 foot (305mm) below street subgrade and the conduits connecting to the structure shall be sealed as provided herein. The bottom

of such structures shall be perforated or broken to prevent the entrapment of water.

Structures designated on the plans to be removed shall be removed to the full depth of the structure, including its foundation. Voids resulting from abandoned or removed structures shall be filled with suitable material compacted to a relative compaction of 90 percent.

Cover sets, gratings, and other steel components (except reinforcing bars) of removed or abandoned structures shall be salvaged. The contractor shall contact the owners, and if required, shall deliver to and load such material in the owner's truck at the site of the work. Otherwise, such material shall become the property of the contractor and shall be disposed of by him away from the site of work.

306-6 REMODELING EXISTING SEWER FACILITIES.

Where the plans indicate construction involving existing sewer facilities, the contractor shall provide temporary seals, enclosures, forced ventilation or other devices as may be necessary to prevent odor nuisance during construction. Sewers shall be open to the atmosphere only for a reasonable time necessary for construction.

Where a manhole bottom is to be remodeled on an existing sewer, the portion to be remodeled shall be removed to a minimum depth of 3 inches (76mm) to permit construction of new channels and shelves. Sewage in new and remodeled manholes shall be controlled across the manhole in such a manner that sewage does not flow over concrete channels until they have cured for 24 hours. The controls shall prevent backup of sewage upstream from the manhole unless otherwise approved by the Engineer.

Where required by the plans or Special Provisions, the contractor shall submit shop drawings for control operations in accordance with Subsection 2-5.3.

306-7 SIDEWALK DRAINS.

Drains shall be constructed beneath the sidewalk to connect building drains to curb outlets and to serve low areas on adjacent property as shown on the plans or as directed by the Engineer.

The drain shall be a 4-inch (102mm) diameter pipe or the equivalent cross sectional area where other shape is necessary to provide the required clearances. The invert of the drain shall be located above the gutter flow line. The drain pipe shall have a minimum 1½ inch (38mm) clearance from top of curb and be laid on a straight grade with a minimum slope of ⅛ inch (3.2mm) per foot and terminate at least 1 inch (25mm) back of the curb face.

Sidewalk drains may be constructed using pipe materials

HYDROSEEDING AND HYDROMULCHING SPECIFICATIONS

SCOPE

This work shall consist of the furnishing of all labor, equipment, and materials and placing of fertilizer and seeds, including, in the area shown, required seedbed preparation and hydromulching.

A. Seed - All seed shall be delivered to the site tagged and labeled in accordance with the California Agricultural Code and shall be acceptable to the County Agricultural Commissioner.

Seed shall be of a quality which has a minimum pure live seed content of 80% (% purity x % germination) and weed seed shall not exceed 0.5% of the aggregate of pure live seed and other material.

Seed shall be distributed uniformly over the seedbed and shall have the following guaranteed application rates.

Kind of Seed and Amount	Pounds/Acre
Blando Brome (Bromus mollis)	10
*Hykon Rose Clover (Trifolium hirtum)	40
*Crimson Clover (Trifolium incarnatum)	20
California Poppies (Eschscholzia california)	5
*Lupine (Lupinus spp)	10
Australian saltbush (Atriplex semibaccata)	20
Wild lilac (Ceanothus sp.)	20
Coyote Brush (Baccharis pilularis)	20

B. Seedbed Preparation - The area to be seeded shall have a firm seedbed which has previously been roughened by scarifying, disking, harrowing, chiseling, or otherwise worked to a depth of two to four inches (2" to 4"). No implement shall be used that will create an excessive amount of downward movement of soil or clods on sloping areas. Seedbed may be prepared at time of completion of earth-moving work.

C. Fertilizer - A commercial fertilizer shall be Ammonium Phosphate and contain a minimum of 16% nitrogen, 20% available phosphoric acid and 0% water soluble potash, uniform in composition, dry and free flowing, pelleted or granular. All fertilizer shall be delivered in unbroken or unopened containers, labeled in accordance with applicable State regulations and bearing the warranty of the producer for the grade furnished.

D. Wood Pulp Mulch - The mulch shall be a green-colored, fibrous, all natural wood cellulose mulch containing no growth or germination inhibiting factors. It is to be colored with a nontoxic water soluble green dye to provide a proper gauge for metering material over ground surfaces. The dye should produce a green color when sprayed on the ground. The color shall disappear

*Legume Inoculation by University of California Pellet Method

within two or three days after being applied and shall not stain concrete or painted surfaces, nor injure plant or animal life when applied at the manufacturer's recommended application rate. It shall be manufactured in such a manner that after addition and agitation in slurry tanks with fertilizer, seed, water, and other approved additives, the fibers in the material will become uniformly suspended to form a homogeneous slurry; and that when hydraulically sprayed on the ground, the material will form a blotter-like ground cover impregnated uniformly with seed; and which, after application, will allow the absorption of moisture and allow the rainfall to percolate to the underlying soil. Suppliers shall certify that laboratory and field testing of their product has been accomplished and that it meets all the foregoing requirements based on testing. Weight specifications of this material from suppliers and for all application shall refer only to air-dry weight of the fiber material. Absolute air-dry weight is based on the normal standards of the Technical Association of the Pulp and Paper Industry for wood cellulose and is considered equivalent to 10% moisture. Each package of the cellulose fiber shall be marked by the manufacturer to show the air-dry weight content. Nonorganic fiber will not be acceptable.

E. Tacking Agent - Tacking agent shall be "Soil-Seal", "Curasol AE", or equal. It shall be mixed with the slurry for an application of 50 gallons of agent per acre.

F. Moisture Retention - Humectant HL80, or equal, a moisture retention agent, shall be mixed with slurry and applied at a rate of 20 gallons per acre.

G. Equipment - Hydraulic equipment used for the application of the fertilizer, seed, and slurry of prepared wood pulp shall be of the type as approved by the Engineer. This equipment shall have a built-in agitation system. The slurry distribution lines shall be large enought to prevent stoppage. The discharge line shall be equipped with a set of hydraulic spray nozzles which will provide a continuous nonfluctuating discharge and delivery of the slurry in prescribed quantities, uniformly, without misses, waste or erosion.

The slurry tank shall have a minimum capacity of 500 gallons and shall be mounted on a traveling unit which may be either self-propelled or drawn with a separate unit which will place the slurry tank and spray nozzles within sufficient proximity to the areas to be seeded so as to provide uniform distribution without waste. The Engineer may authorize equipment with smaller tank capacity provided that the equipment has the necessary agitation system and sufficient pump capacity to spray the slurry in a uniform coat.

H. Preparation - Slurry preparation shall take place on site of work. The slurry preparation should begin by adding water and tacking agent to the tank when the engine is at half throttle. When the water level has reached the height of the agitated shaft, good recirculation shall be established; and at this time the seed shall be added. Fertilizer shall then be added, followed by wood pulp mulch. The wood pulp mulch shall only be added to the mixture after the seed and when the tank is at least one-third filled with water. The engine throttle shall be opened to full speed when the tank is half filled with water. All the wood pulp mulch shall be added by the time the tank is two-thirds to three-fourths full. Spraying shall commence immediately when the tank is full. If a centrifugal pump and recirculation are employed, fiber is added before seed. There shall be a maximum of 150 pounds of fiber per 1,000 gallons of water.

I. Hydromulch - Hydromulch shall be applied at the specified rate, dry weight, per acre. A one-acre batch of hydromulch shall be a mix of seed, fertilizer, and wood pulp mulch in the following proportions:

Seed	- per previous Section
Fertilizer	- 500 pounds
Wood Pulp Mulch	- 2,000 pounds

J. Application - The operator shall spray the respective areas as shown on the Drawings with a uniform, visible coat by using the green color of the wood pulp as a guide. The slurry shall be applied in a sweep motion, in an arched stream, so as to fall like rain, allowing the wood fibers to build on each other until a good coat is achieved, and the material is spread at the required rate per acre. Hydromulching is to be done only when there is no wind.

K. Time Limit - Any slurry mixture which has not been applied to the slopes within one hour after mixing will be rejected by the Engineer and shall be removed from the project at the Contractor's expense.

L. Irrigation - A temporary (to be abandoned after establishment period) irrigation system should be installed prior to hydroseeding so that all hydroseeded areas can be irrigated.

M. Germination and Growth - It shall be the Contractor's responsibility to not only bring the seed to germination but also to bring seeded areas to a uniform stand approximately four inches tall. If a four-inch growth is not obtained within three months of initial seeding, the area shall be reseeded at a time specified by the District inspector.

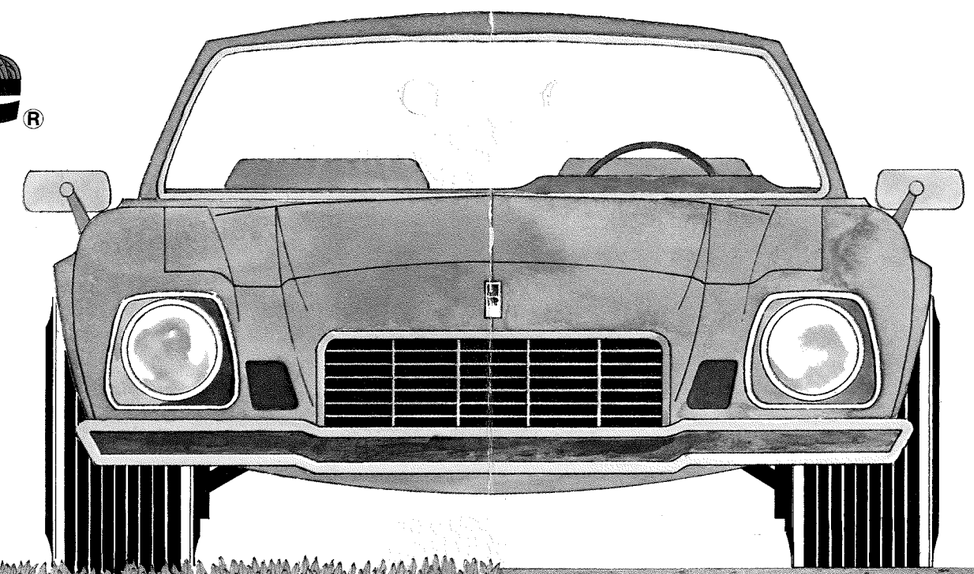
BOMANITE CORPORATION 7/76 GRASSCRETE 2p PAVING & SURFACING

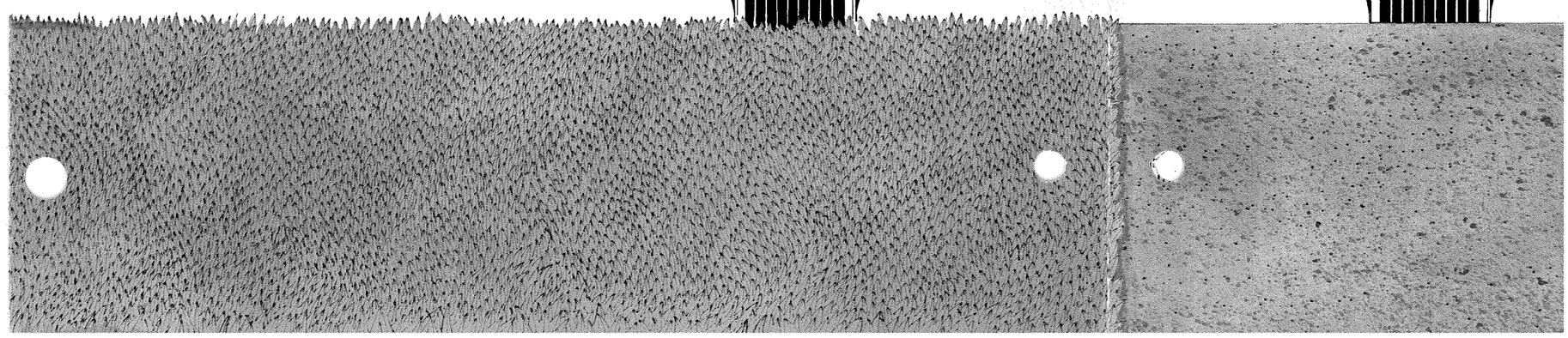
instead of
unattractive
asphalt or
plain concrete.

THE BEST OF BOTH WORLDS

Grasscrete®

Now makes it possible
to park, and drive cars,
trucks & trailers on a
beautiful lawn!





SANTA CLARA
VALLEY WATER DISTRICT

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THE BEST OF BOTH WORLDS

Grasscrete®

Pours like concrete..

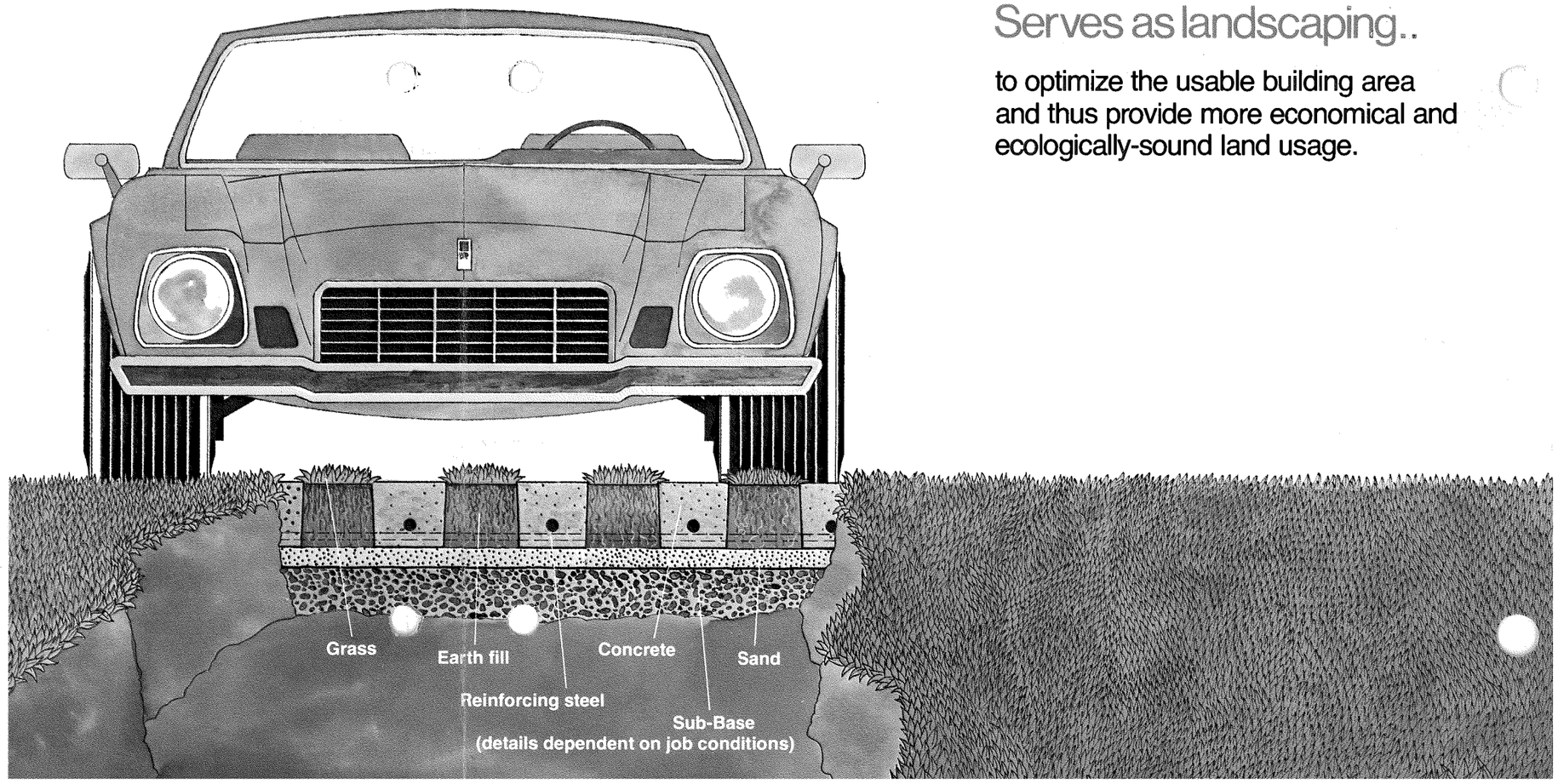
to provide the load bearing characteristics, durability, and level surface of a slab, with holes .. that the contractor, then ..

Plants like grass..

to turn the concrete into an oasis of beauty that provides natural drainage and oxygen supply while it ..

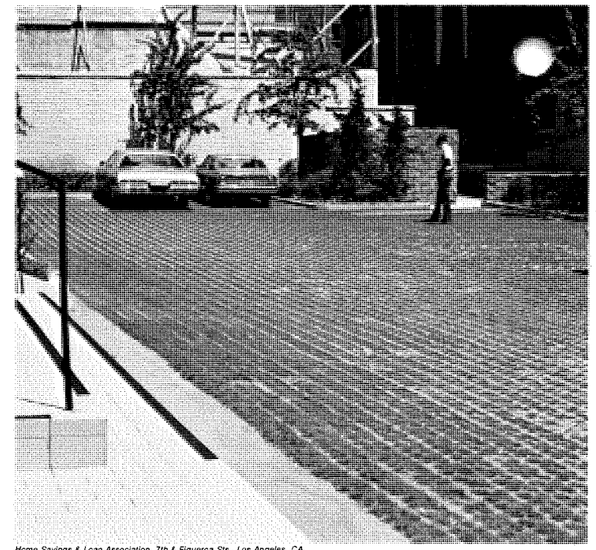
Serves as landscaping..

to optimize the usable building area and thus provide more economical and ecologically-sound land usage.

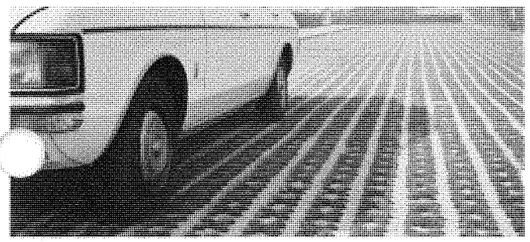


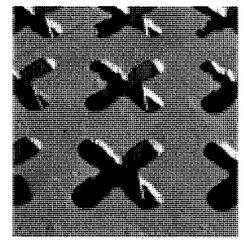
A greenbelt with a purpose..

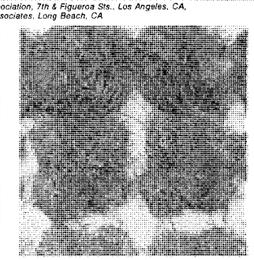
Over 3,000,000 square feet of Grasscrete have been installed since 1972 for a wide variety of purposes .. including (below) **A Greenbelt Access Road** .. that can support heavy equipment, too.▼



Home Savings & Loan Association, 7th & Figueroa Sts., Los Angeles, CA, Arch: Frank Homolka & Associates, Long Beach, CA







An Oxygen-Producing▲ Parking Lot .. generates enough oxygen for 25 people.

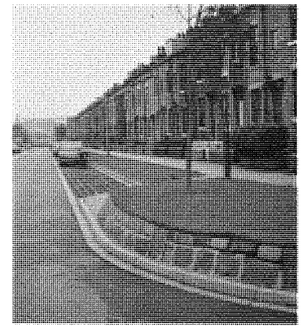
◀**Before and After Planting ..** The finished slab can be colored .. ideal for walking and biking.

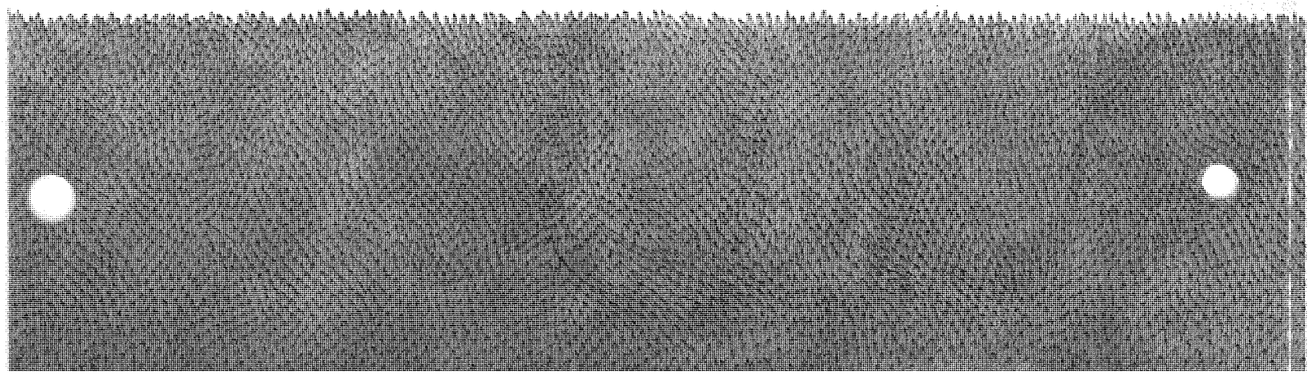
A Parking Lot with Trees .. Grasscrete provides the drainage for root feeding.▼

A Self-Draining,▲ Mud-Free Parking Lot .. Eliminates the run-off problem associated with conventional paving.

◀**Installing a Drive-On Divider ..** or median strip provides for emergency cross-over or parking.

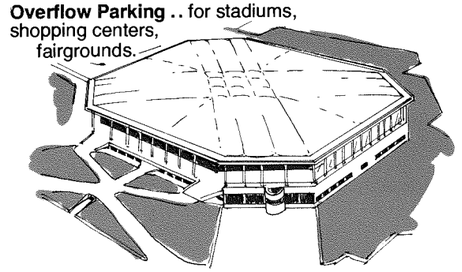
Offstreet, Curbside Parking .. extends the lawn to the street for convenience and beauty.▶



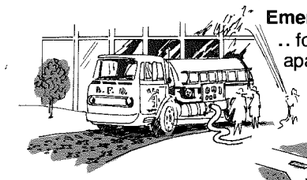


101 Purposes..Now think Grasscrete for..

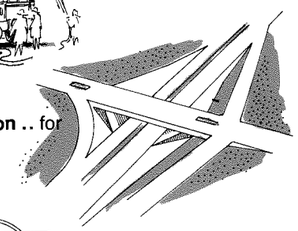
Overflow Parking .. for stadiums, shopping centers, fairgrounds.

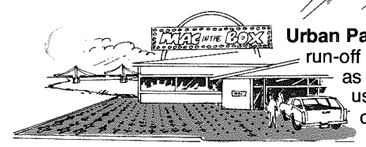


Emergency Access Roads .. for high density apartments and offices.



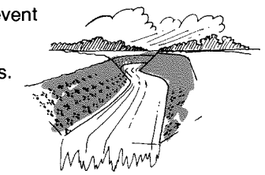
Highway Beautification .. for off-road parking, rest areas, medians.

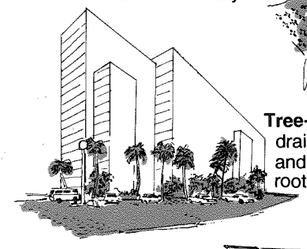




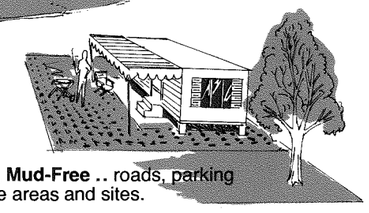
Urban Parking .. where run-off is a problem; as an alternative, use gravel instead of soil and grass.

Soil Stabilization .. to prevent embankment erosion in riverbeds, freeways, flood control waterways.





Tree-Saving .. built in drainage provides water and aeration for trees' root structures.



Dust-Free, Mud-Free .. roads, parking and storage areas and sites.

In places like .. community parks • country clubs • picnic areas • golf courses • zoos • amusement and theme parks • loading and unloading areas • civic centers • hospitals • shopping centers • drive-in theatres • restaurants • auto agency lots • gas stations • stadiums • ballparks • airports • marinas • farms • municipal corporation yards • utility yards • bus stations and storage areas • train stations • trailer parks • to name a few.

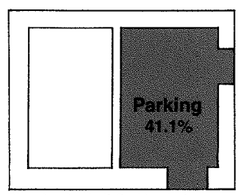
Better Land Usage.. A Beautiful Purpose

When Grasscrete Serves As Landscaping, Too .. sound ecological as well as economical use of the land are both achieved. When presented properly to a progressive planning-zoning committee, Grasscrete is accepted as a load-bearing lawn.

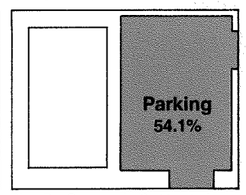
Everybody Benefits .. when Grasscrete is considered as an integral part of the landscaping:

- **the architect ..** who now has a new "design" surface to use, and a parking lot he doesn't have to "hide".
- **the landscape architect ..** who can now blend parking and landscaping areas to achieve new affects and broader expanses of greenery and trees.
- **the community ..** who can maximize their land use and income now with positive ecological impact.
- **the builder-developer ..** who meets the needs for an environmentally-pleasing development while maintaining or improving his occupancy and income.

Example .. 30% More Occupancy & Income .. on the same land was possible with the example below by adding a partial second story of 3000 sq. ft. to the existing building plan. However this additional occupancy generated the need for 3920 sq. ft. more parking area. But with a Grasscrete parking lot qualifying as landscaping, too .. the added occupancy and parking was accomplished without disturbing existing building and parking-landscaping ratios. Although Grasscrete obviously costs more to maintain than plain asphalt, maintenance costs are not included because of the wide variations in climate and labor costs; and the fact that Grasscrete can even cost less to maintain than some of the forms of landscaping it replaces.



Plan A—Asphalt Parking Lot



Plan B—Grasscrete Parking Lot

	Plan A Asphalt	Plan B Grasscrete
Total Land Area (Sq.Ft.)	30,000	30,000
Land Cost (@ $3.45/Sq.Ft.)(1)	$103,500	$103,500
Building (Sq.Ft. Land)	10,000	10,000
Building (Sq.Ft. Occupied Space)	10,000	13,000
Building Cost (@ $30.00/Sq.Ft.)	$300,000	$345,000(2)
Parking Area (Sq.Ft.)(3)	12,320	16,240
Parking Lot Cost(4)	$ 9,860	$ 32,480
Landscaped Area (Sq.Ft.)	7,680	3,760
Landscaping Cost ($1.10 Sq.Ft.)	$ 8,448	$ 4,136
Land Use As Percentage of Lot		
Building	33.3%	33.3%
Parking	41.1%	54.1%
Landscaping	25.6%	12.6%
Total Landscaping Area	25.6%	66.7%
Total Project Cost	$421,808	$485,1[illegible]
Total Cost per Occupied Sq.Ft.	$ 42.18	$ 37.[illegible]
Gross Rental Income per Year(5)	$ 78,000	$101,400
Gross Return On Investment	18.5%	20.9%

(1) The higher the land cost, the greater the economic advantages of Grasscrete (2) 3000 sq. ft. addition @ $15.00 per sq. ft. (3) zoning requirement, 1 parking space (280 sq. ft. including aisles) for each 225 sq. ft. of occupied space. (4) Even greater advantage results from Grasscrete when compared to plain concrete parking. (5) Square foot rental income @ 65¢/month..$7.80/year.

Specifying Grasscrete..

The Grasscrete Contractor is normally a specialty subcontractor and the work is called out in a section of the specifications that is separate from concrete and landscaping.

Suggested Specifications..

Section___: Grasscrete (generally Section 2p-Paving and Surfacing)

1. **Scope.** All work in this section shall be as designated Grasscrete in the plans. The work shall include all labor, materials, equipment and transportation required to install Grasscrete.
2. **Contractor.** The Contractor for this work shall be licensed by Bomanite Corporation, 81 Encina Avenue, Palo Alto, CA 94301, (415) 321-0718, to utilize the process described in U.S. Patents No. 3,664,241 and 3,802,790. The Contractor shall provide a foreman or supervisor who has done at least 3 Grasscrete installations of high quality.
3. **Subgrade.** The subgrade shall be compacted and prepared for Grasscrete consistent with the requirements for other concrete slabs on grade on this project. (Note to Specifier: Subgrade preparation may be done either by the General Contractor or by the Grasscrete Contractor; the preferred choice being dependent on the type of project and the contractors involved.)
4. **Concrete Mix.** The concrete shall have a minimum compressive strength of 3,000 psi, (Note: 4,000 psi if freeze-thaw area). Portland cement shall conform to ASTM C 150, Type I, II or V, depending on soil conditions. Aggregates shall conform to ASTM C 33 and be minus ⅜″. Mixing water shall be fresh, clean, and potable. In freeze-thaw areas, air entrainment of 4 to 6% shall be provided.
5. **Slab Design.** The Grasscrete slab shall have a thickness of ___″. Reinforcing steel bar shall be ___″ diameter and shall be spaced on 8″ centers. Steel shall be supported to be located between ⅓ and ⅔ the thickness of the slab. In heavy traffic areas, steel dowels shall be provided to transfer loads between adjacent slabs.

Guideline for Grasscrete slab thickness & rebar selection

Intended Use	Maximum Weight	Slab Thickness	Rebar Dia.
Cars & Light Vehicles; light to moderate use	5 tons	4″	¼″
Cars & Light Vehicles; heavy use	5 tons	4″	⅜″
Light Trucks, moderate use	15 tons	4″	⅜″
Fire Trucks; emergency access lanes	15 tons	4″	⅜″
Light Trucks; heavy use	15 tons	6″	⅜″
Heavy Trucks	30 tons	6″	⅜″

6. **Grasscrete Construction Process.**
   a. Sand bed of minimum thickness of ¾″ shall be placed on subgrade and screeded to a plane parallel to the grade desired for finished concrete slab.
   b. Grasscrete formers shall be placed on sand bed and reinforcing steel shall be placed.
   c. Concrete shall be placed and screeded level to grade.
   d. The slab shall be cured with a suitable curing membrane.
   e. The plastic tops of the Grasscrete formers shall be removed after the concrete has reached its initial set.
7. **Soil and Seed.** Holes shall be filled with soil and grass seed suitable for local conditions. (Note to Specifier: Soil and seed may be provided and installed by either the Grasscrete Contractor or by a landscape contractor, the preferred choice being dependent on the type of project and contractors involved.)
8. **Colored Concrete.** Available in great variety of colors as option. Consult Contractor for detailed information.

Maintenance .. requires only normal watering and mowing. Root structure is protected by concrete and is not damaged by vehicle use. Mowing is seldom required in areas of frequent traffic.

Mowing and Snow-Plowing .. because it is a reinforced monolithic slab, Grasscrete will remain a level surface. Thus, it can always be easily mowed and will not be damaged by snow-plow blades.

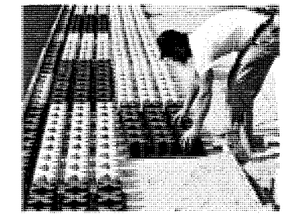
® Grasscrete is a registered trademark with the U.S. Patent Office and other foreign countries.

7/76/15 Copyright BOMANITE Corporation 1976

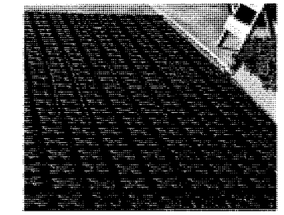
Installing Grasscrete..

Special concrete construction procedures are followed for Grasscrete utilizing proprietary formers and patented processes which are necessary for proper installation.

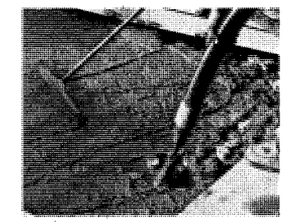
Your Grasscrete Contractor .. has been carefully selected and trained by BOMANITE to add his skills and experience to insure a finished job of high quality. He is a member of the BOMANITE International Society, a world-wide network of exceptionally skilled concrete contractors.



Placing the formers.. on prepared sub-base.



Reinforcing Steel .. in position in formers.



Placing and leveling concrete .. screeded flush with tops of formers.

Opening the holes .. by burning or cutting away the exposed tops of formers.

Adding the soil .. fills holes for planting.

Planting .. with either sod plugs (shown) or blends of grass seed suitable to area.

See Bulletin 303 or call BOMANITE Corporation to locate your local Grasscrete Contractor or Sales Representative.

Bomanite® CORPORATION
81 Encina Avenue
Palo Alto • CA 94301
(415) 321-0718

BOMANITE Corporation.. originator of BOMANITE ® and other specialty concrete processes, provides special formers and Grasscrete patent rights to Grasscrete Contractors. In addition, BOMANITE also provides research and development, installation training, technical service, and quality control standards to the Grasscrete Contractors.

® Bomanite is a registered trademark and servicemark with U.S. Patent Office and other foreign countries.

from Flint Cr. Permit

~~Permit No. 79449A~~ ~~(continued)~~

6. The storm drainage system is to be operational by October 15, 1980. No obstruction to the existing waterway between October 15 and April 15, 1980 will be allowed.

7. Under terms of this Permit, Permitee is to design and award a contract for stated improvements to Flint Creek and a portion of East Reservoir Distributary and, upon completion of these facilities, will convey title in them to the District. It is appropriate to set forth the respective functions that will be performed by Permitee and District during the construction phase.

In order for Permitee to maintain control of the contract, it is typical that they would perform the contract administration and resident engineering functions necessary for the advertisement, award, construction and acceptance of the project. Examples of such duties include: obtaining necessary permits, conducting prejob conferences, review submittals such as insurance and shop drawings, performing continuous inspections, field staking and materials testing, evaluate proposals for substitutions and extra work and obtaining District's approval for same, estimating quantities for and making progress payments, and the determination of final contract quantities and making final payment to the contractor.

District's role will be limited to such periodic field inspection, cast in place pipe inspection, review of test results, and designation of additional materials and quality assurance testing it considers necessary to insure physical compliance with the plans and specifications. This will allow District staff to independently recommend acceptance of the completed facilities to our Board of Directors.

The Permitee is to provide the District with one copy of test reports and certificates of compliance for all items covered in permit.

Should our inspector ~~note~~ find that the contractor is performing work which is ~~considered to be~~ defective, he will immediately inform Permitee's Field Representative as to the particulars in order that the Field Representative may promptly resolve the matter. Although the Field Representative may, in some instances, want to obtain District's concurrence prior to issuing a stop notice or reject work, it is understood that such direction to the contractor will only be given by the Permitee's Field Representative.

Please furnish the name or names of those persons that will be performing administration and resident engineering services for Permitee as outlined above. As for District's representative during the construction phase, all correspondence should be directed to: Harvey Passanisi, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, California 95118. Phone (408) 265-2600, extension 323.

8. Permitee shall acquire all rights of way necessary for construction of this project, including any requisite acquiescence of holders of easements through or upon the construction area. The District will be indemnified, defended and held harmless on account of any damages resulting in any way from construction activities associated herewith. Upon completion of the project, all right~~s~~ of way acquisition will be completed before transfer to the District.

Table 13. Soil and Chemical Requirements. [42]

FRACTION	PARTICLE SIZE (mm)	PERCENT OF SAMPLE MIN	PERCENT OF SAMPLE MAX
GRAVEL	LARGER THAN 2.0	-	20%
SAND	2.0 - .05	-	65%
SILT	.05 - .002	-	80%
CLAY	LESS THAN .002	10%	35%

TOPSOIL CHEMICAL PROPERTIES REQUIREMENTS

PROPERTY	MIN	MAX
pH*	5.5	8.5
ESP+	-	10.0
EC#	-	4.0

*pH NEGATIVE LOGARITHM OF THE HYDROGEN ION CONCENTRATION
+ESP EXCHANGEABLE SODIUM PERCENTAGE
#EC ELECTRICAL CONDUCTIVITY, MILLIMHOS PER CM @ 25 C

4/29 SAE (AP)
JAMETO PF & RS
GSK
ATH

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17675 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

April 28, 1980

Anthony B. Varni
Attorney at Law
22300 Foothill Boulevard
P.O. Box 570
Hayward, California 94543

Re: Santa Clara Valley Water District Retention Basin

Dear Mr. Varni:

Thank you for your letter of April 16th, 1980 requesting a statement of the "price, terms and conditions under which [my] clients will sell the right-of-way for the above rentention basin to Kaufman and Broad."

Inasmuch as California Eminent Domain Law (Code of Civil Procedure Section 1245.240 requires a 2/3rds vote of all the members of the Board of Directors of the Santa Clara Valley Water District to undertake an eminent domain proceeding, the failure of the Board members who favor taking my client's property to obtain the necessary 2/3 vote for the project at its last meeting would appear to indicate that the Board will not be authorizing eminent domain proceedings in the future.

As previously indicated, my clients have no voluntary desire to sell their property.

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: clients
Arthur T. Pfeiffer
Patrick T. Ferraro
Robert T. Sapp

'80 APR 29 AM 11:43

SANTA CLARA
VALLEY WATER DISTRICT

Santa Clara Valley Water District

MA ROOM ROUTING SLIP
FC 35 B (04-03-80)

No.	Name	Initial	1980	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	GARRETT				
	HENLEY				
	WILSON				

No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Finance					Central Files			
	Flores					Francis					Library			
	Holley					Fujita					Lowrance			
	Melton					Simons					Marovich			
	Personnel					Smith								
	GARRETT				1	KORBAY	BK				GILL			
	Bundy					Burger					Cotton			
	Bramblett				4A	Carlsen					Cournoyer			
	Donnell					Hall					Dean			
						Lawrie					Ferguson			
	BEAUDET					McNeely					Sutcliffe South Co.Office			
	Erling				2	Richardson	[illegible]				Watson			
	Kriege					Wilson (Bruce)								
	Pardini				3	Goldhoff	POC							
	Regadanz				4	Rochodson	[illegible]							
	Sanchez													

Action Codes
A. Rush
B. Contact Me
C. Follow-up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare response
L. Coordinate

Remarks: I think this letter will go far toward getting at least a couple of members to re-think their position.

What's 2/3 of 7? 4 or 5? (5)

ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

W. Carlson

File: Permits, East Zone
Ruby Creek
White Road
Nly of Tully Road

X-File: East Pipeline

Re: 84" CIPP-White Road Improvements
80A227A, 80P227A

April 25, 1980

Mr. Bill Fisher
Ruth and Going
Post Office Box 26430
San Jose, California 95159

Dear Bill:

This is in reference to your plans for the construction of Ruby Creek in the Lake Cunningham area.

The plans are generally satisfactory except for the following:

1. Please make the exit structure at least 25 feet long with a concrete bottom and concrete cutoff wall at the end. The concrete cutoff wall should extend up the sides and be tied into the gabions. The cutoff wall should be at least 4 feet deep. A standard vertical concrete endwall should be used at the end of the pipe with a guardrail at the top. A flat area about 40 feet back from the end of the pipe should be provided for maintenance access. An access ramp should be provided from this area to the creek bottom.

2. The last 40 feet of pipe should be aligned with the downstream channel with curves used at all bends. A curve should also be used at the start of the project.

3. On the two White Road inlets we recommend flap gates should be installed in manholes at least 10 feet away from the 84" pipe if the inlets are much below elevation 130. See attached suggested detail.

4. Another manhole should be installed at Station 4+00.

5. Manhole covers should be bolted.

6. If cast-in-place pipe is used it should have a minimum of 3 feet of cover between the top of pipe and finish grade of the street. Therefore, under Tully and White Road (Sta. 1+00 to 3+00) reinforced concrete pipe (RCP) should be used. If cover is less than 2 feet over the RCP, a concrete cap should be used.

7. The minimum cover for cast-in-place pipe is 2-1/2 feet in areas other than streets. Therefore, from Sta. 3+00 to 8+25, RCP should be used unless the finish grade is raised to provide this cover or the alignment is shifted further to the west.

8. We do not recommend use of CMP at the pipe exit. RCP should be used under at least the last 40 feet of pipe.

9. Where cast-in-place pipe is used it should be designed, installed, and tested in accordance with the Standard Specifications for Public Works Construction 1979 edition written by the Southern California Chapter of the APWA as amended by the Los Angeles County Flood Control District amendment of July 1978. A copy of the cast-in-place pipe portion of these specs is included. Minimum pipe thickness should be in accordance with State Department of Transportation specs, copy enclosed. Concrete should be designed for an ultimate concrete stress of 5000 psi.

10. If cast-in-place pipe is used, a full time inspector must be present to monitor quality control of pipe. The inspector should perform standard concrete tests and wall thickness measurements as required by the attached specifications and keep construction and testing records. A weekly report detailing the progress of work and results of test cylinders and measurements should be sent to the District. This inspection should be provided by an independent consulting engineer as part of the construction contract.

The attached marked plan should clarify some of the above items.

Please send revised plan and specifications for our review and issuance of a permit.

Very truly yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Enclosures: Suggested Detail
Marked Plan
APWA Specs
LACFC Specs
State Specs

cc: Mr. Bob Kenton, Design and Construction Division, City of San Jose

J. Richardson; W. Carlsen; D. Erling; A. Codiroli; E. Sullivan

WFC:bp

To: John Richards
(1) D. Lawson
(2) Carlson

AGENDA MEMORANDUM

AGENDA DATE 4/15/80 -4/1/80- ITEM NO. 4 UNIT Design and Construction

ZONE E PROJECT NO. NAME Ruby Creek

SUBJECT: Construction of Ruby Creek Flood Control Project by Developers and Request that District Acquire the Right of Way

EXPLANATION:

In accordance with the City of San Jose Evergreen Development Policy, a developer has been required to construct Ruby Creek from, and including, the sediment control facility to downstream of White Road as a condition of receiving approval of residential subdivisions. The City of San Jose will construct the reach between the end of this project and the existing Flint-Ruby Creek Channel within Lake Cunningham Park. Construction of the project is planned to begin this spring.

The developer has asked that the District acquire the necessary right of way (see attached letter) at developer's expense. Staff believes that this is an appropriate request and staff will be able to handle the work. It is proposed that a reimbursement agreement be formulated and returned to the Board for approval.

An EIR for the subdivision, prepared by the City, also described the Ruby Creek Flood Control Project. District staff reviewed the EIR in July 1977 and made no substantive or adverse comment. In a more recent review of the detailed flood control project plans, District staff made several suggestions to the engineer to mitigate potential aesthetic and geotechnical impacts.

Staff has been contacted by persons residing in the vicinity of the proposed sediment basin who have expressed concern on its proposed location. A meeting was held between these residents and representatives of the developer. District staff were in attendance. Also, an exchange of correspondence has taken place between Mr. Henley and Mr. Bruce Tichinin, an attorney retained by the residents. The meeting and the correspondence indicate that the residents would like to see the sediment control facility relocated off their property. Location of this basin was first tied to the alignment of future Tully Road in the adopted 1970 Ruby Creek Engineer's Report. Following the establishment of the final alignment of Tully Road by the City of San Jose, the staff confirmed the proposed location of the sediment basin by letter in August 1977 to representatives of the developer. Since that time they have designed their housing project and the Ruby Creek project with this sediment basin location. Staff has reexamined the location of this basin relative to several other sites and recommends that the basin be located as proposed.

(CONTINUED FROM 4/1/80)

4/15/80: The Board approved in concept that the facility be located adjacent to and in accordance with the location of Tully Road as established by the City of San Jose and that negotiations between the developers and the affected property owners be encouraged and directed the preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board. JM

RECOMMENDATION: ~~Approve in concept the request that the District obtain needed right of way for the project and direct preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board~~.

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

January 16, 1980
Job 206-76-3

Mr. Don Lawrie
Real Estate Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, Ca. 95118

Reference: Ruby Creek

Dear Mr. Lawrie:

Our client, Kaufman and Broad, has requested that we advise you that they would be interested in pursuing negotiations with the Santa Clara Valley Water District to prepare necessary appraisal reports and pursue required property acquistion for the proposed Ruby Creek retention basin. It was our understanding at our meeting on Wednesday, January 9, that it would be necessary for you to receive authorization from your Board to pursue the appraisal and acquisition function and further that the District would charge a fee for performance of those functions.

We respectfully request on behalf of Kaufman and Broad that you make the necessary request to your Board at your earliest convenience for authorization to pursue the appraisal and property acquisition functions for implementation of the Ruby Creek improvement project. Please direct correspondence to the attention of Mr. Rob Miller at Kaufman and Broad, 6379 Clark Avenue, Dublin, Ca. 94566, phone number 829-4500, for particulars.

Preliminary title reports of the properties that will be affected by the retention basin have been issued by First American Title Company of San Jose. Two preliminary copies of a record of survey of the affected properties are enclosed for your use.

Should you have any questions, do not hesitate to call.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/vt

CC: Rob Miller

'80 JAN 18 PM 2:37
ALLEN ... DISTRICT
SANTA CLARA

memorandum

Carlsen

TO	John Richardson	FROM	Bernie Goldner
SUBJECT	Ruby Creek Flood Control Project	DATE	March 14, 1980

The following is my assessment of the impacts of locating the sediment control basin of the Ruby Creek Flood Control Project at three potential sites. The sites, shown on the accompanying map, are: (1) Site A, proposed by HMH, Inc. and approved by the District in 1977 (see attached letter), (2) Site B, downstream of Site A originally designated in the District's Report on Proposed Improvements on Flint and Ruby Creeks and, (3) Site C, located along Ruby Creek immediately upstream of Klein Road, suggested recently by staff as an alternative to the other two sites.

It is my understanding that all three sites will function adequately from an engineering and technical standpoint. According to Bob Tepel, there are no significant geological differences between the three sites that would give preference to one site over the other.

Win Stiles field surveyed the sites for biological impacts. He concluded that locating the basin at Site C would have the greatest impact since this reach of the creek does have some trees and wildlife habitat that could be removed by construction, grading or operation of the basin. Even if the basin were to be built at the site, however, the biological impact could not be considered significant since the riparian plant community is not particularly rich. Riparian vegetation found along the creek at Site A or B is insignificant and would tend to naturally revegetate following excavation or placement of fill.

As regards visual impacts, although more difficult to access objectively compared to other types of impacts, it appears that location at Site B would result in the greatest impact since the basin would be surrounded by many homes in the proposed subdivision. The basin in this location would have to be excavated substantially below grade, and include a perimeter levee and a downstream embankment similiar in design to the Flint Creek sediment basin. Even with landscaping around the periphery of the basin at this site, the basin would be quite visually obtrusive, in my opinion. Location of the basin at either Site A or C would involve far less excavation and grading since the creek is deeply incised at these locations. Although several homes are located at elevations above Site A and C so that they would look down into the basin, far fewer homeowners would be visually impacted at these sites. The visual impact at Site C would be more severe than at Site A because the setting is more pastoral in character.

The concrete channel required along the creek bottom at Site A would be visible initially but only until silt filled in the channel. The proposed chain link fence around the perimeter of the basin would be a visually prominent feature and therefore, I suggest that if a fence is necessary, then rustic split rail fence be substituted or the fence be eliminated entirely if agreement between the homeowners and HMH, Inc. can be reached on this issue. Another recommendation to mitigate visual impacts is to substitute gabions for sack riprap at the inlet works and wherever else sack riprap is required. The fill slope should be seeded with a quick germinating

groundcover to mitigate the short-term visual impacts of bare earth as well as provide erosion protection. In time, the slope will revegetate and blend in with the adjacent terrain.

The issue has been raised as to whether it is appropriate for the District to prepare a subsequent EIR under Section 15067 of the State EIR Guidelines since new information on the design of the basin at Site A has become available since approval of the City's 1977 EIR. The decision regarding a subsequent EIR basically rests on whether the recent design changes for the basin will result in significant new impacts not previously considered. These changes consist of the concrete channel bottom and the fill slope. As discussed above, I do not believe that these changes can be judged as significant provided that the mitigative measures proposed are implemented. While it is true that a number of homeowners adjacent to Site A strongly object to construction of the basin at this location primarily on the basis that portions of their property must be taken, I do not believe that these objections constitutes a significant impact in itself. Section 15084 of the State EIR Guidelines and case law have established that public controversy over a project must be based on a difference of opinion involving substantial evidence such as a disagreement between qualified experts as to whether a project would result in a hazard to the public.

A related concern expressed by some of the homeowners is loss in property value resulting from location of the basin adjacent to their homes. If the visual impacts are mitigated, I do not believe the value of their homes will be adversely affected by the basin.

Consequently, based on my assessment of the impacts of the proposed project at Site A, I do not find that a subsequent EIR is required since I have not been able to identify any impacts that cannot be mitigated to acceptable levels.

ORIGINAL SIGNED BY

Environmental Specialist
Project Development Branch

cc: B. Goldner
W. Stiles
W. Carlsen
A. Henley

BHG:mw

Attachment

3/14 cc: BHG JLR cc: GSK DAL

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

March 10, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Control Facility; City of San Jose Subdivision, File No T78-1-7

Dear Mr. Henley:

Thank you for your letter of March 6, 1980.

If the Water District cannot dictate the location of its facility, then the facility sounds more like a private one than the public one described in your letter of February 15th. If it is a private one, of course, then, as you have previously acknowledged, the District has no authority to condem to bring about the existence of the facility.

Even a facility cannot serve two masters. And I would say only the true masters of the facility can dictate its location. No?

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F. Carlson
Donald A. Lawrie

James T. Harper
Gary Schoennauer

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

March 6, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Mr. Tichinin:

Re: Ruby Creek Sediment Control Facility; City of San Jose Subdivision, File No. T78-1-7

Thanks for your letter of February 21, 1980. I had hoped to get back to you before now but the matter remains under review here.

As an intellectual exercise I have considered the point you make, that there is a private purpose in the location of (as opposed to the use of) our facility. Interesting. The fact is, of course, that the developer, not the District, is building the thing at his sole cost and is under no order from the City as to precise location. Can we dictate his decision on this point? I have no immediate answer.

Faithfully,

Albert Thomas Henley

Albert Thomas Henley
General Counsel

bc: James T. Harper, HMH, Inc., Consulting Civil Engineers, Koll Business Park, 1415 Koll Circle, Suite 107, San Jose, CA 95112

Gary Schoennauer, Planning Department, City of San Jose, 801 N. First Street, San Jose, CA 95110

L. Fowler; G. Korbay; J. Richardson; W. Carlsen; D. Lawrie; B. Goldner

ATH:scs

2/25 ATH JCK GSK

LAW OFFICES OF
TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

February 21, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No T 78-1-7

Dear Mr. Henley:

Thank you for your letter of February 15, 1980; your comments help to focus the issue.

I agree, upon reflection, with your statement that the facility will be a public improvement and serve a public purpose.

However, the fact remains that the facility may be located on the developer's property as easily as it may upon my clients' property, and that the developer has requested that it be located on my clients' property and has agreed to pay the costs incurred by the Water District to acquire my clients' property.

Wouldn't you agree that the purpose behind locating the facility on my clients' property is to increase the developer's profit from his subdivision, and that this is a private purpose?

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

Sediment control

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

February 15, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Mr. Tichinin:

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No. T78-1-7

I believe you are wrong in your assumption that the subdivision concerned in the Ruby Creek sediment control facility did not have EIR review. However, the issue before this District is whether to permit the construction proposed by the developer as required by the City. On this question our staff will ensure appropriate CEQA compliance.

The further issue, as I understand it, is whether this District may exercise its power of eminent domain to acquire the title necessary for the facility. You are suggesting that we would be condemning for a private purpose. We would not and clearly could not do that. The facility is a public improvement and will serve a public purpose; it will be owned, operated and maintained by a public agency (this one) for the control of flood and storm waters.

I have considered the issue before and given often and prayerful study to the cases. Those you cite do not meet the question because they actually beg the issue. Would you not agree that the law is that if you don't find a public purpose you don't condemn; if you do you may.

Necessity is something else and here we will be able to show that the facility is essential to the operation of our channel. (Note, not the channel of a private mining company: our channel.)

Faithfully,

Albert Henley

Albert Thomas Henley
General Counsel

bc: James Harper, HMH, Inc., Consulting Civil Engineers
Koll Business Park, 1415 Koll Circle, Suite 107, San Jose, CA 95112

Gary Schoennauer, Planning Department, City of San Jose
801 N. First Street, San Jose, CA 95110

bc: J. Richardson
B. Goldner

ATH:scs

AN EQUAL OPPORTUNITY EMPLOYER

2/13 ATH LCF

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

February 12, 1980

Albert T. Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision File No. T78-1-7.

Dear Mr. Henley:

Please be advised by this letter that I represent the following owners of real property in the general area of the Ruby Creek project referred to above: Hazel J. and Kenneth H. Hall, Lewis and Jean Glick, Richard and Patricia Bibby, David C. and Debra J. Zozaya, and Hubert E. King.

It is my understanding that the City of San Jose, and the Santa Clara Valley Water District will require that the subdivider who constructs the subdivision referred to above also construct a sediment pond at the headwaters of Ruby Creek in the area of the proposed subdivision and my clients' property, as a condition of subdivision map approval. This facility is being required pursuant to the City of San Jose Evergreen Policy, Phase III and plans prepared previously by the Water District for the area.

From a discussion at which I, my clients, James Harper, a consulting engineer for HMH, Incorporated representing the subdivider (Kaufman and Broad), and Mr. Carlson, Mr. Goldner and Mr. Lawrie of your staff were present, it is my understanding that the Water District believes that it is possible from an engineering standpoint to place the sediment pond facility either on the property to be subdivided, or on my clients' property, and that plans to place the facility on my clients' property have not been reviewed for their adverse impact upon the environment, potential mitigation measures, or alternative project sites or configurations under the California Environmental Quality Act.

My review of the City of San Jose file on this subdivision discloses that the City Council of the City of San Jose never reviewed the tentative map in this matter, nor exercised its discretion with respect thereto, but that it is currently deemed to stand approved pursuant to the provisions of

Government Code Section 66452.4 relating to approval by failure to act.

Furthermore, though a Draft EIR was prepared initially for this subdivision, the final and official CEQA treatment of this subdivision by the City of San Jose was a Notice of Determination based on a Negative Declaration (copies enclosed) which appear to me to be legally deficient in the following particulars:

1. Inadequate Initial Study.(State EIR Guidelines §15080(c) (Subdivision 3)). I find no identification of environmental effects by use of a check-list, matrix or other method. In fact, I was unable to discover any Initial Study in the file.

2. No EIR Despite Significant Effects. The initial preparation of a Draft EIR for the subdivision project seems an admission by the developer and the City of San Jose that the project may have significant effects on the environment and therefore requires the preparation of an EIR under CEQA;

3. Failure of City Council to Make Determination. The Negative Declaration and Notice of Determination were prepared not by the City of San Jose which is the Lead Agency for the discretionary project of the subdivision map approval (State EIR Guidelines §§15023.7, 15024, and 15030) but rather by the Director of Planning.

In addition to failing to comply with CEQA, it appears that the developer proposes that, though the facility might be entirely located on the property to be subdivided, the sediment pond basin be located so as to require the flooding and acquisition of my clients' real property.

In this particular situation where it so clearly appears that only the private use proposed by the developer invokes a need for the construction of the facility at all, it is further entirely possible to construct the facility on the developer's property rather than my clients' property, and it is finally proposed that the cost of any eminent domain acquisitions by the Water District of my clients' property for the sediment pond would be paid by the private developer, it seems to me abundantly clear that the proposed taking would be for the developer's private use, and not a public use, and that the taking of my client's property would be a denial of substantive due process since it would be arbitrary, capricious and unreasonable to take my clients' property for the purpose when the developer's property

could serve as well.

With respect to the former grounds, I invite your attention to the following California cases:

1. City of Los Angeles v. Keck (1971) 14 Cal 3rd 290; 92 Cal Rptr. 599; In this case the City sought to condem a fee in a parcel in which it had an easement. Condemnation was for purposes of installation of power lines. It was acknowledged that no greater area of land surface was required for the present or future operations of the power lines than that already secured in the easement. The Court held that condemnation proceedings through eminent domain did not lie because there was no showing of public necessity.

2. County of Alameda v.Meadowlark Corporation (1964) 227 Cal App 2d 80, 38 Cal Rptr 474, and County of San Mateo v. Coburn (1900) 130 Cal 631; Holding that the issue of whether or not the property sought to be condemed was actually to be put to a public use is a justiciable issue.

3. Consolidated Channel Co. v. Central Pacific R.R. Co. (1876) 51 Cal 269: The plaintiff mining company sought to procure by condemnation certain lands belonging to the defendant railway company, to serve as a site for a bed-rock flume to carry dirt and gravel from its mining claims operations. Held: No power of eminent domain existed because the proposed use was clearly private.

"It is clear... that the object sought is the appropriation of the private property of the defendants to the private use of the plaintiff. The proposed flume is to be constructed soley for the purpose of advantageously and profitably washing and mining plaintiff's mining ground. It is not even pretended that any person other than the plaintiff will derive any benefit whatever from the structure when completed. No public use can possible be subserved by it. It is a private enterprise, to be conducted soley for the personal profit of the plaintiff, and in which the community at large can have no concern. It is clear that this case does not come within the meaning of that clause of the

> Constitution which permits the taking of private property for a public use after just compensation is made." (51 Cal 272)

The Court cited with approval the following language from Loan Association v. City of Topeka in which the City had issued certain bonds to the plaintiff as a donation to encourage that company in its design of establishing a manufactory of iron bridges in that city: "If it be said that a benefit results to the local public of a town by establishing manufactures, the same may be said of any other business or pursuit which employs capital or labor, the merchant, the mechanic, the inkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good, and equally deserving of the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer which would not open the coffers of the public treasury to the importunities of two-thirds of the businessmen of the city or town." (51 Cal 272).

The facts of this case and our case are interestingly close. In Consolidated Channel Co., the facility for which land was taken was a channel to conduct away debris; in our case it is a pond to catch debris in order to prevent it from being conducted with water flowing in the channel.

On behalf of my clients, I readily recognize the power of the Water District, to take private property for public use when necessity requires it. I respectfully propose that reflection will disclose that this is one of those rare instances in which neither public use nor public necessity is involved. My clients will defend any attempt to take their property in eminent domain proceedings on that ground, and any others which may exist.

I would welcome your analysis and comments on this interesting matter.

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc
cc: Clients
Bernard Goldner
W.F. Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

NEGATIVE DECLARATION

CITY OF SAN JOSE, CALIFORNIA

FILE NO. T 78-1-7

Adopted
DATE 8/8/78

PROJECT LOCATION

Southeasterly corner of Tully Avenue and Ruby Avenue

County Assessor's Parcel Number: 652-12-8

PROJECT DESCRIPTION

Tentative Subdivision Map for 72 lots for single-family residential use on 20.4 gross acres zoned R-1:8-8.

CERTIFICATION

The Director of Planning certifies that the above project will not have a significant effect on the environment. This finding is based on the following considerations:

1. A geologic report and preliminary soils report have been prepared for the site which indicate the site is suitable for the proposed development.
2. Potential flooding impacts from the project are mitigated by requirements for flood protection measures with the project (construction of Ruby Creek to a 1% flood protection standard from Silver-Thompson Creek to the sediment basin and control of all headwaters).
3. An archaeological reconnaissance revealed no traces of archaeological resources.
4. A traffic report prepared for the project indicates all peripheral access intersections will function at a level of service D or better upon completion of the improvements scheduled in the Five-Year Capital Improvement Program and budgeted in the Transportation Financing Program for 1978-79.

July 31, 1978
Date

JOHN W. HAMILTON
DIRECTOR OF PLANNING

The Initial Study on which this Negative Declaration is based was prepared by the Director of Planning and is on file in the Office of the City Planning Department.

By William L. Phillips
William L. Phillips, Deputy

PROTEST OF NEGATIVE DECLARATION

The Director's finding may be protested in writing by any person within five (5) working days of adoption of this Negative Declaration. Such protest shall be filed in the office of the City Planning Department, City Hall Annex, Room 400, 01 N. First Street, San Jose, upon payment of the $50 filing fee and shall include a statement specifying those anticipated environmental effects which may be significant. A protest of a Negative Declaration will be heard by the Planning Commission at the earliest possible date.

CITY OF SAN JOSE
CALIFORNIA

JOHN KAZUBOWSKI, Clerk
Deputy

NOTICE OF DETERMINATION

(Project for which a Negative Declaration has been prepared.)

CITY PLANNING

CITY FILE NO. T 78-1-7

PROJECT LOCATION AND DESCRIPTION:
(Include project common name where possible.)

Southeasterly Corner of Tully Avenue and Ruby Avenue

Tentative Subdivision Map for 72 lots for single-family residential use on 20.4 gross acres zoned R-1:B-8.

PROJECT DECISION:	DECISION-MAKING BODY:	DECISION DATE:
Approved	Director of Planning	10-14-78

DETERMINATION OF ENVIRONMENTAL EFFECTS.

1. No EIR has been prepared for this project pursuant to the California Environment Quality Act.

2. It has been determined by Negative Declaration that this project will not have a significant effect on the environment.

3. A copy of the Negative Declaration for this project may be examined at the Office of the Director of Planning of the City of San Jose, Room 400, City Hall, 801 North First Street, San Jose, California, 95110.

JOHN W. HAMILTON
Director of Planning
City of San Jose

By William L. Phillips
WILLIAM L. PHILLIPS, Deputy

Ed Miller
Jim Harper
WFC
JLR

Meeting on 10 Mar 80
Reading Cr. Seed Basin

Mar 14
7
21

M 10
T 11
W 12
Th 13
F 14

21 22 23 24 25

TO Bob Teped

Santa Clara Valley Water District

Inter-Office Memo

SUBJECT: Ruby Cr. Debris Basin DATE: 22 Feb 80

We have been asked to investigate the alt of no debris basin. Can you give us an opinion of the sediment & debris potential of this watershed. Thanks

Bill: I am unfortunately in no position by training or experience to do a rigorous analysis of sediment producing potential. The watershed is geologically complex but in spite of a 25-acre

PLEASE REPLY TO → SIGNED W. F. Carlen

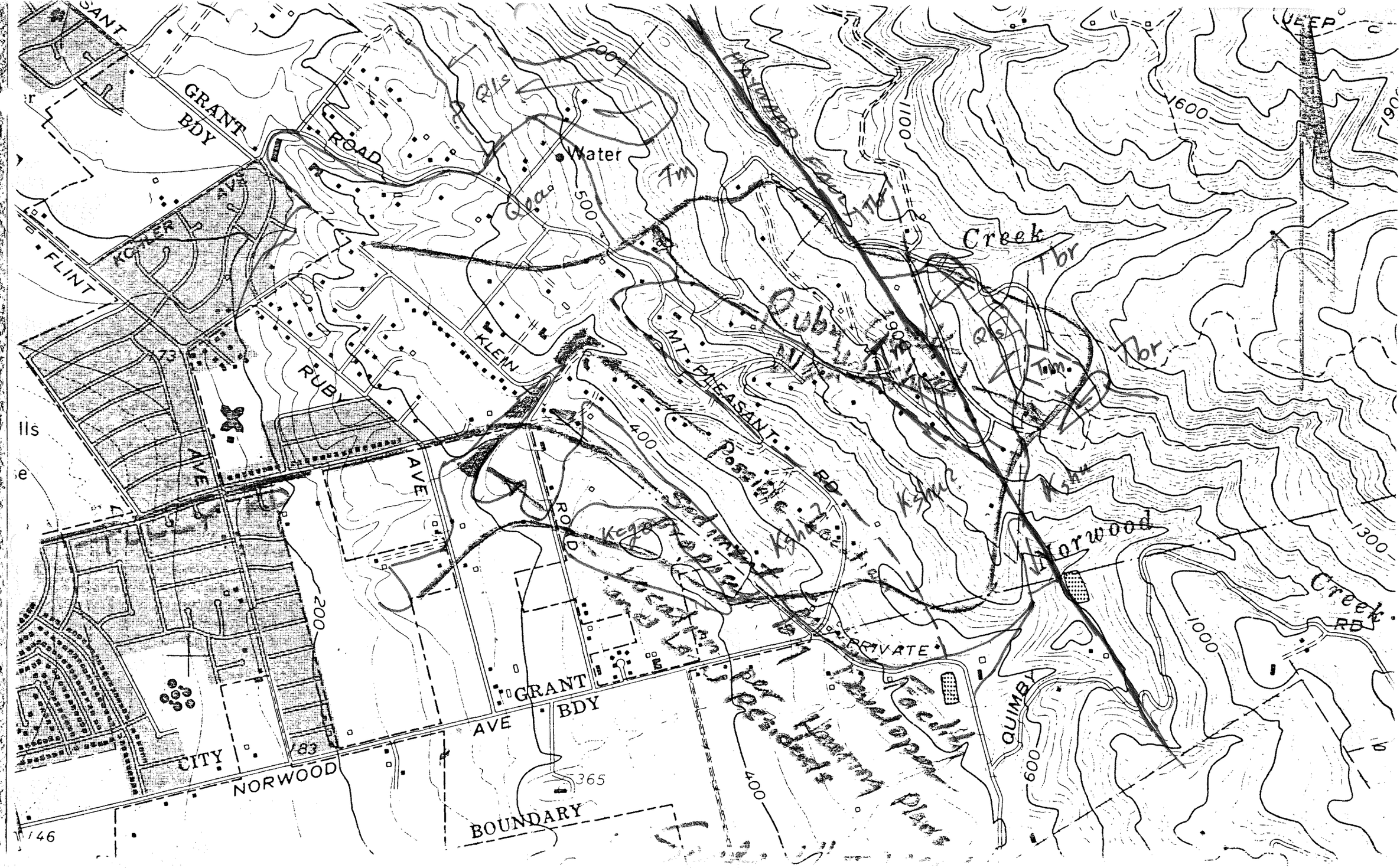
landslide at the head it should produce low quantities of predominately fine sediment. Ruby Creek is actively incising its channel this year. Future sediment production will be low unless developers run amok. If we come down hard on developers to control erosion during construction plus do good planting at cuts and fills, the need for a basin is - by horseback estimate - marginal. Provided, of course, that you don't need a basin to settle out sediment before it enters a closed conduit or Lake Cunningham.

DATE 3/10/80 SIGNED Bob Teped

SEND WHITE AND PINK COPIES WITH CARBONS INTACT. PINK COPY IS RETURNED WITH REPLY.

FC-141 (7-1-75)

RETURN TO SENDER


GRANT
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7/2 cc: WFC
" DAL
GSK

DHG
JCL
LCF

BRUCE TICHININ
KOHLER & MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9[illegible]

February 21, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No T 78-1-7

Dear Mr. Henley:

Thank you for your letter of February 15, 1980, your comments help to focus the issue.

I agree, upon reflection, with your statement that the facility will be a public improvement and serve a public purpose.

However, the fact remains that the facility may be located on the developer's property as easily as it may upon my clients' property, and that the developer has requested that it be located on my clients' property and has agreed to pay the costs incurred by the Water District to acquire my clients' property.

Wouldn't you agree that the purpose behind locating the facility on my clients' property is to increase the developer's profit from his subdivision, and that this is a private purpose?

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

Santa Clara Valley Water District

MAILROOM ROUTING SLIP
FC 354B (12-27-79)

No.	Name	Initial	1980	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	FOWLER				
	GARRETT				
1	HENLEY				How is the env. ass. coming - The question of
	WILSON				location is the only one left, in my view.
2	GOLDNER				But that cd. be a B. Bracker because our

No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Finance					Central Files			
	Flores					Francis					Library			
	Holley					Fujita					Lowrance			
	Melton					Simons					Marovich			
6	Personnel					Smith								
	HENLEY													
	GARRETT					KORBAY					FOWLER			
	Bundy					Burger								
	Bramblett				4	Carlsen								
	Donnell					Hall								
						Lawrie								
	BEAUDET					McNeely					GILL			
	Erling				3	Richardson					Cotton			
	Kriege					Wilson					Cournoyer			
	Pardini										Dean			
	Regadanz										Ferguson			
	Sanchez										Sutcliffe South Co.Office			
											Watson			

Action Codes
A. Rush
B. Contact Me
C. Follow-up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare response
L. Coordinate

Remarks: resolution of condemn. must assert that the improvement is located so as to cause the greatest public good & the least private injury - We will certainly consult Wylie before trapping in.

ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

2/22 cc: ATH
WFC
" DAL
GSK

cc: BHG
J 2
LCF

BRUCE TICHININ
ROBERT H. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 778-9[illegible]

February 21, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No T 78-1-7

Dear Mr. Henley:

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Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (12-27-79)

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	ESAU				
	FOWLER				
	GARRETT				
	HENLEY				
	WILSON				

No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code	No.	Name	Initial	1980	Code
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	Esau					Finance					Central Files			
	Flores					Francis					Library			
	Holley					Fujita					Lowrance			
	Melton					Simons					Marovich			
	Personnel					Smith								
	GARRETT					KORBAY					FOWLER			
	Bundy					Burger								
	Bramblett				2	Carlsen								
	Donnell					Hall								
						Lawrie								
	BEAUDET					McNeely					GILL			
	Erling				1	Richardson					Cotton			
	Kriege					Wilson					Cournoyer			
	Pardini										Dean			
	Regadanz										Ferguson			
	Sanchez										Sutcliffe South Co.Office			
											Watson			

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Remarks:

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TO Bob Tepel

Santa Clara Valley Water District

Inter-Office Memo

SUBJECT: Ruby Creek

DATE: 15 Feb 80

Could you advise regarding the geologic feasibili of alternative locations of the Ruby Creek debri basin. Attached plan shows the proposed location and alternative sites upstream and downstream. A preliminary opinion based on field observatio and existing data is all we need for the moment. Thanks

PLEASE REPLY TO → SIGNED Bill Carlen

BILL: GEOLOGICALLY THE THREE BASIN SITES ARE FAR MORE SIMILAR THAN THEY ARE DIFFERE THERE IS LITTLE REASON APPARENT NOW TO THINK THAT A RANKING OF THE SITES ON THE BASIS OF GEOLOGIC DESIREABILITY WOULD BE CRITICAL INPUT TO THE SITE CHOICE DECISION. USING THE D/S OR U/S SITE WOULD ELIMINATE MY PREVIOUS CONCERN ABOUT THE KLEIN FILL ON THE S.E. SIDE OF THE CENTRAL SITE. THE U/S SITE IS CROSSED BY THE PROJECTED TRACE OF A POTENTIALLY ACTIVE FAULT. SINCE THE FAULT TRACE IS LOCATED WITH POOR CONFIDENCE, IT COULD WELL ACTUALLY BE OUTSIDE THE U/S SITE OR EVEN AT ON OF THE OTHER SITES. HOWEVER THE RISK OF FAULT MOVEMENT AT A TIME WHEN THE BASI IS FULL IS EXTREMELY LOW AND COULD BE IGNORED IN MY OPINION. WE SHOULD GET GEOLOGIC REVIEW OF PLANS FOR THE SITE THAT IS CHOSEN.

D/S = DOWNSTREAM, U/S = UPSTREAM. ATTACH: ALQUIST-PRIOLO MAP W/LOCAL GEOLO

DATE 2/15/80 SIGNED Bob Tepel

SEND WHITE AND PINK COPIES WITH CARBONS INTACT. PINK COPY IS RETURNED WITH REPLY.

FC-141 (7-1-75)

RETURN TO SENDER

146

TO Bob Tepel

Santa Clara Valley Water District

Inter-Office Memo

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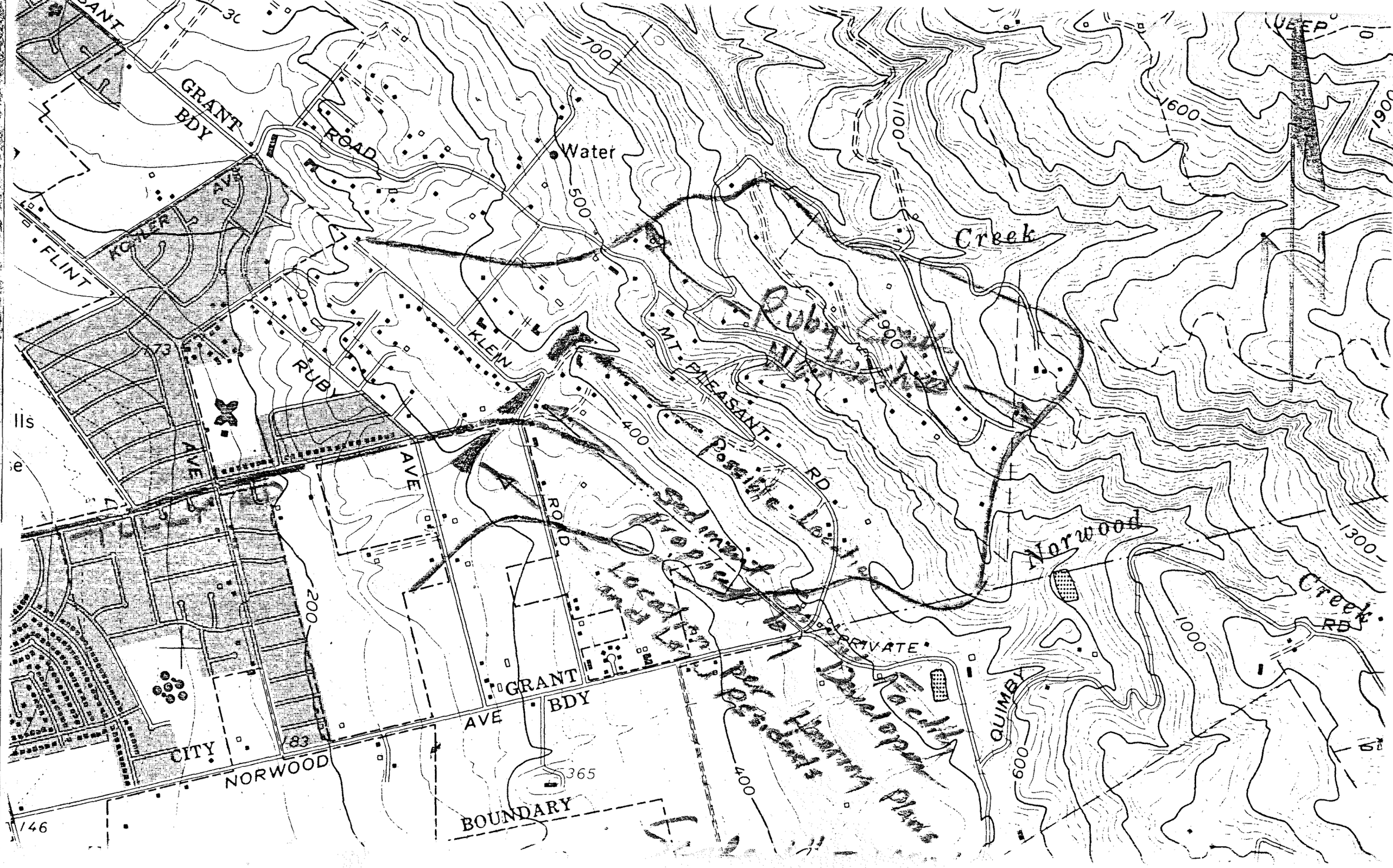
PLEASE REPLY TO → SIGNED Bill Carlen

DATE

SIGNED

FC-141 (7-1-75)

DETACH THIS COPY - RETAIN FOR ANSWER


GRANT
BDY
ROAD
Water
KOHLER
AVE
FLINT
RUBY
KLEIN
MT. PLEASANT
RD
Ruby Hill
Possible Location
Sediment Ponds
Proposed Location
Residents Housing Plans
Developer Facility
Creek
Norwood
Creek
RD
PRIVATE
QUIMBY
AVE
ROAD
GRANT
BDY
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CITY
NORWOOD
BOUNDARY
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JLY -

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

February 15, 1980
Job No. 206-76-3

Mr. John Richardson
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, Ca. 95118

Reference: Ruby Creek

Dear John:

Enclosed for your use and information is a series of correspondence between the City of San Jose, Santa Clara Valley Water District and HMH pertaining to the Ruby Creek Project.

Should you have any questions, please do not hesitate to call.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/vt

Encs.

CC: Rob Miller, Kaufman and Broad, w/encls.

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 354B (12-27-79)

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	GARRETT				
	HENLEY				
	WILSON				

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H. File
I. Approval
J. Signature
K. Prepare response
L. Coordinate

Remarks:

I would like to review.

2/19

ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

Jan 1, 1978 Dist. resp. agency

MEETING OF FEB 11, 1980

BILL THOMAS - CITY OF SAN JOSE

V. RICHARDSON SCVWD

D. LAWRIE "

B. GOLDNER "

W. CARLSEN "

PER THOMAS ON NOTIFICATION OF E.I.R.

(1) PEOPLE WITHIN 300 FT. OF SUBDIVION ARE NOTIFIED

(2) NOTICE IN PAPER

APPROVED UNDER LAW 884 Jan 1, 1978

10-14-78 Neg. Dec approved by Hamilton on Vae West near Debris basin
Ellis & King notified
District not notified

File notice of determination ?

Is concrete in debris basin for erosion control or saturated slope ?

nemorandum

W. Carlsen

TO	FROM
John L. Richardson	W. F. Carlsen
SUBJECT	**DATE**
Ruby Creek	February 26, 1980

We had a meeting at the Hall's house on January 31, 1980 regarding the Ruby Creek sediment basin. Those attending were:

Mr. & Mrs. Hall	Property Owner
Mrs. Glick	Property Owner
Mr. Kampfen	Property Owner
Mr. King	Property Owner
Mr. Richard Biby	Property Owner
Mr. Bruce Tichinin	Attorney for Property Owners
Jim Harper	H.M.H., Inc.
Ed Miller	H.M.H., Inc.
Dick Miller	Santa Clara Valley Water District
Don Lawrie	Santa Clara Valley Water District
Bernie Goldner	Santa Clara Valley Water District
W. Carlsen	Santa Clara Valley Water District

I described the history of the Ruby Creek Hearing Plans; Don Lawrie explained how the District could become involved in a condemnation action; and Jim Harper described the Ruby Creek project, in particular, the sediment basin. We toured the site and answered all questions so that everyone was familiar with the proposed project and there appeared to be no misconceptions.

The property owners' position is that they want the sediment basin located below the future extension of Tully Road, back to the approximate location shown in our 1970 and 1973 Hearing Plans. They object to the taking of their property and the aesthetic changes the basin would have on the creek, which is now a natural and scenic ravine. I explained that this location was also satisfactory to the District, but in order to obtain the required storage volume, the dam would need to be removed downstream enough of a distance to compensate for the future Tully Road fill.

Mr. Tichinin maintained that he did not believe the District had the right to condemn property because the main benefit was to the Developer in this case, since more lots can be developed with the basin in the proposed location northerly of the proposed extension of Tully Road.

We advised everyone at the meeting that we would probably discuss this with our Board of Directors at some future time and that they would be notified of the time when we were sure it would be on the agenda and that they could attend if they so desired.

Bernie Goldner will assess the impacts of locating the basin at the two sites mentioned above as well as a site just upstream of Klein Road. Once this is completed, staff will discuss the issue with the Board and make a recommendation.

ORIGINAL SIGNED BY

Division Engineer
Design Coordination Division

cc: /W. Carlsen; B. Goldner; D. Lawrie; D. Miller; A. Codiroli; E. Sullivan

WFC:kj

Santa Clara Valley Water District

☐ GM 100 ☐ AF 400 ☐ 700
☐ GC 200 ☐ DCS 500 ☒ DC 800
☐ COB 300 ☐ CE 600 ☐ CM 900

AGENDA WORK SHEET

FC 352 (08-31-78)

AGENDA DATE: _____

ONE:	SCOPE NUMBER:	PROJECT NAME:
E	4019	Ruby Creek

BASIS FOR BOARD ACTION REQUIREMENT:

☐ BOARD POLICY ☐ EXTERNAL PUBLIC REQUEST ☐ SPECIAL BD. DIRECTION ☐ OTHER Information

☐ EXTERNAL INST'L REQUEST ☐ PREVIOUS AGREEMENT ☐ STAFF POLICY _____ (SPECIFY)

SUBJECT:

Construction of Ruby Creek Project

EXPLANATION:

A developer has been required to construct Ruby Creek from and including the sediment reduction facility to downstream of White Road as a condition of building a subdivision. City of San Jose will construct the reach between the end of this project and the Flint-Ruby Creek channel, constructed as part of Lake Cunningham. An EIR for the subdivision was filed in June, 1977. The Ruby Creek project was described in this EIR. The project is planned to begin this spring.

(FOR ADDITIONAL COMMENTS USE

Meeting Jan 9, 1980 to answer questions on Ruby Cr. project.

Jim Harper HMH
Ed Miller HMH.
Don Lamme SCVWD.
B. Goldner "
W. Carlson "
B. Tapel "

1. Fencing - mitigate by using 42" scenic fence

2. Landscaping - seed mixture on site slopes.

3. R/W. - Harper to check with Developer to see if they want District to condemn.

4. Want to use cast in place pipe because 30-40% cheaper.

5. Plan to agendize on Feb 5th.

6. Developer will contact Angel Island & group before then

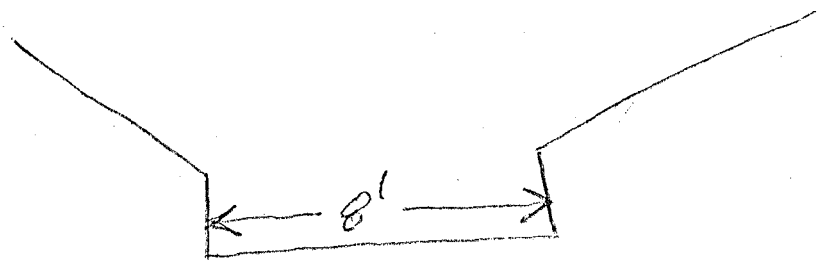
memorandum

TO Bill Carlsey FROM Jim Cooper

SUBJECT DATE 12/21/79

1) Please see D.M.E.'s comments on page 1 relative to the invert elevation of Lake Cunningham and possible catch basin backflow problems

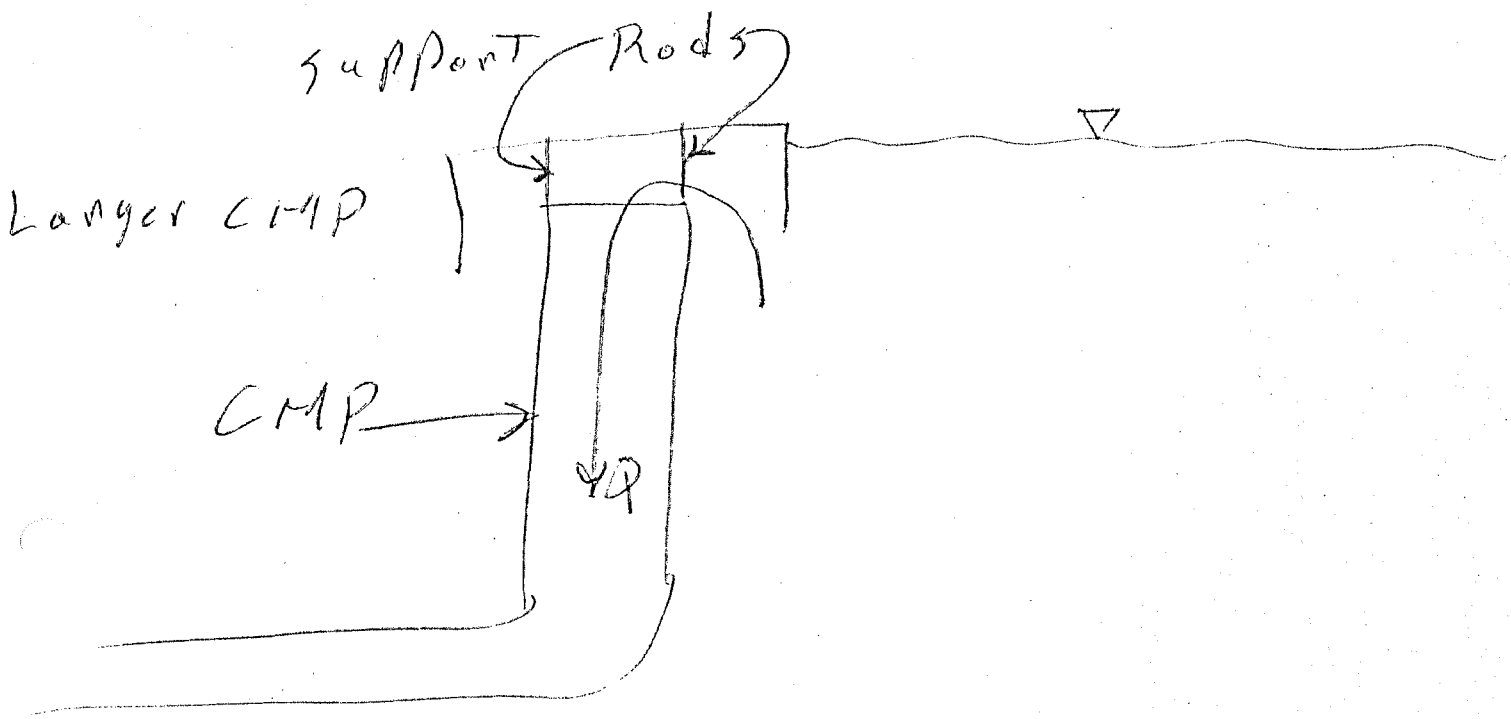
2) Page 6, Detail C/6 indicates that about 400± of U shaped concrete ditch is being installed. It would be preferable to put in a small (minimum 8' bottom width U frame like so —



3) Pg 7, please provide locking devices for the metal grates

4) Pg 8 — Trash rack Detail — I think Bob Howards Design is better, that

over the vertical standpipe & creates a vertical wier — It's virtually impossiple for this type to become clogged



TO: BILL CARLSEN 12/13/79

FROM: BOB TEPEL

SUBJ: RUBY CR. BASIN
PURCELL-RHOADES REPT. OF NOV. 15, 1979

THE REPORT REFLECTS THE CHOICE OF A NEW SOILS CONSULTANT AND A NEW LOOK AT THE PROJECT.

THEY HAVE ADEQUATELY CONSIDERED SLOPE STABILITY PROBLEMS WHICH I RAISED EARLIER.

I WOULD SUGGEST THAT SECTIONS 3 AND (OR) 5 OF THE CONSULTANTS RECOMMENDED EARTHWORK SPECS SHOULD BE STRENGTHENED TO REQUIRE BENCHING INTO COMPETENT MATERIAL ON ~~FILL~~ SLOPES STEEPER THAN 5H:1V WHEN PLACING FILL ON THEM. THE DESIGN SHOULD CALL FOR A KEY FOR THE FILL SLOPES IN THE BASIN TO BE COMBINED WITH THE CLEAN-OUT OF THE STREAM BOTTOM. JUST ROUGHENING OF THE SURFACE AS SHOWN ON THE DWGS. [SECTS. $\frac{A}{7}$, $\frac{B}{7}$, and $\frac{C}{6}$] IS NOT ACCEPTABLE.

PROVISION SHOULD BE MADE FOR A POSSIBLE SUBDRAIN BELOW THE PCC DITCH LINING IF THE SOIL ENGINEER DETERMINES IT IS NEEDED DURING CONSTRUCTION.

WE SHOULD REQUIRE THAT ALL OTHER REC'S. OF THE SOIL ENGINEER & HIS EARTHWORK SPECS BE FOLLOWED (UNLESS WE HAVE STIFFER REQUIREMENTS); THAT SCVWD HAVE TIMELY NOTICE AND INSPECTION RIGHTS ON THE CONSTRUCTION OF THE BASIN; AND THAT WE RECEIVE A COPY OF THE SOIL ENGINEER'S FINAL GRADING REPORT ON THE BASIN, TULLY ROAD EMBANKMENT, AND BASIN DISCHARGE LINE.

Regards

PS - ADVISE YOU HAVE SOMEONE ELSE CHECK OUT THIS ON FROM A FLOOD CONTROL STANDPOINT.

Santa Clara Valley Water District

DES & CONSTR. UNIT
FC (01-19-76)

MEMO ROUTING SLIP

No.	Name	Info	Action	Initial
1	Bob Tepel			
2				
3				
4				
5				
6				
7				
8	Attached are plans & geology reports for Ruby Creek			

Comments: Please advise regarding stability of Klein Rd. Debris basin etc. Attached is copy of your previous memo.

comments attached
Rob 12/18/79

From: Bill C.

Date: 12 Dec 79

memorandum

TO	FROM
W. F. Carlsen	Robert Tepel
SUBJECT Ruby Creek Sedimentation Facility - File 78599	DATE August 1, 1979

As you requested in your memo of July 25, 1979, I have visited the site, studied Terratech's report, and offer the following comments:

1. Although the report is adequate as far as it goes, slope stability analyses of the entire slopes on both sides of Ruby Creek should be performed. The analyses should take drawdown conditions into account. The calculations should be done with or without the access road cut, whichever is more conservative in the consultant's judgement, to determine the safety of the house.

2. If the requested access road is built, design of the cut slope below the house should include a paved brow ditch. Planting the slope to minimize erosion is also suggested. A 15-foot clearance between the structure and the top of cut or edge of brow ditch is suggested.

3. I am concerned about the stability of Klein Road and the adjacent basin slope. Because of the possibility of retained waters saturating fill of questionable competence downslope of Klein Road, the developer's consultant should be asked to inspect the fill and comment on its stability under operating conditions as part of their stability analysis of the southeast slope of the basin.

4. We should specify approximate operating elevations and rate of fill and drawdown.

Robert R. Tepel
Engineering Geologist
Geology and Water Quality Division

cc: E. Watson
D. Lawrie
D. Erling
K. Reiller
A. Codiroli
G. Sullivan
R. Tepel

RET:lam

File: City of San Jose Sub'd
Ruby Creek
Nly/s of Tully Road
Wly of Klein Road

Re: Ruby Creek Retention Basin
79A584A, 79S584A

August 23, 1979

Mr. Ken Hankins
HMH, Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Ken:

This is in reference to our letter of August 6, 1979. The design flows given on the 2nd page should be revised as follows:

Reach	1% (cfs)	2% (cfs)
Ruby Avenue to Sedimentation Facility	190	170
Vista Verde Drive to Ruby Avenue	230	210
Lake Cunningham to Vista Verde Drive	260	240

Sincerely yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Mr. William Phillips, Zoning Administrator, City of San Jose
Mr. E.R. Toschi, Engineering Services, City of San Jose

J. Richardson; W. Carlsen; D. Lawrie; K. Reiller;
B. Tepel; D. Erling; A. Saah; A. Codiroli; E. Sullivan

WFC:bp

Bill
Sent you the re-
Q's --- I assume you
called Ken Hankins. I
suggest you also put in
writing so our file will
show the letter
has been revised

~~Richardson~~
Carter —

File: City of San Jose Sub'd
Ruby Creek
Nly/s of Tully Road
Wly of Klein Road

August 6, 1979

Re: Ruby Creek Retention Basin
79A584A, 79S584A

Mr. Ken Hankins
HMH, Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

8/22

Dear Ken:

Following are the current flows and design criteria which should be used to design the sediment control facilities and pipe system:

Sediment Control Facility

1% flow	-	173 cfs
4% flow	-	116 cfs

The sediment control facility and pipe inlet on the main branch should be designed so that the water surface in the basin is at least three feet below the emergency spillway outlet during the four percent flood. Also, the water surface in the basin should be below the emergency spillway outlet during the one percent flood. The emergency spillway should be designed to convey the four percent flow with two feet of freeboard and the one percent flow without overtopping the sediment control facility, assuming blockage of the main spillway. The emergency spillway should be designed to outfall into a street that would convey the flows directly to the Ruby Creek open channel that will start downstream of White Road.

The basin should be self-draining with a maximum bank slope of 3:1. If the dam has a height greater than 25 feet from the bottom of the natural streambed at the downstream toe to the bottom of the main spillway, it must also be built to State standards and under State supervision.

As you requested, we have looked at alternative means of access to the recommended 22-foot access road westerly of the sedimentation facility. Our Maintenance Department believes that they can maintain the basin with the following access provisions which are shown on the attached map.

1. A 100 x 30-foot flat area (with a minimum slope for drainage) be provided between future Tully Road and the old barn.

2. An access ramp be provided into the basin from this flat area down the catch point between the Tully Road fill and the natural ground. Slope should not exceed 10%.

3. A flat area (with a minimum slope for drainage) be provided at the upstream end of the basin downstream of Klein Road. The pipe under Klein Road should be about 50 feet longer than it presently is and the flat area would be over this pipe. Transitions for erosion protection should be provided at the inlet and outlet. The pipe under Klein Road should be designed to carry the four percent flow with two feet of freeboard.

The basin side slopes and fill, adjacent to Klein Road and on the opposite bank, should be checked by an engineering geologist to see they they would be stable when the basin is full of water, during an earthquake or under rapid draw down conditions. If Klein Road would be unstable, then remedial measures such as retaining walls, road relocation, etc. should be proposed for our review. The safety of the house and barn on the northwesterly side of the basin should be checked to see if they would be stable under the same conditions as above such as rapid draw down, etc.

Pipe System

The pipe system should have the capacity to convey the two percent flood ("50-year flood") plus freeboard. Freeboard should be determined by the capacity to convey the one percent flooe in a closed conduit with the hydraulic grade line at or below the ground surface.

Reach	1% (cfs)	2% (cfs)
Ruby Avenue to Sedimentation Facility	205 190	173 170
Vista Verde Drive to Ruby Avenue	342 230	283 210
Silver Creek to Vista Verde Drive	505 260	412 240

Please send detailed plans for our review and issuance of a permit.

Yours very truly,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination

Attachment
cc: Mr. William Phillips, Zoning Administrator, City of San Jose
Mr. E. R. Toschi, Engineering Services, City of San Jose
J. Richardson, W. Carlsen, D. Lawrie, K. Reiller, B. Tepel
D. Erling, A. Saah, A. Codiroli, E. Sullivan

WFC:mw

HMH 294-3232

Bill Carlsen

~~Sarah~~ –

Charlie Kan of Nolte advises that the print out they obtained from you for Ruby Creek gives 261 cfs for the 1% flow below White Road.

The latest flows we obtained from you gave 504.8 cfs for this same reach. Attached is a copy of the summary sheet.

Please let me know how to resolve this.

Bill C

Aug 8, 1979

Bill:

Please see the corrected values attached

Sarah
8/22/79

~~A. Saah~~
B. Carlsen

Santa Clara Valley Water District

Inter-Office Memo

SUBJECT: Ruby Creek

DATE: 13 Oct 77

Please advise the most up to date 1%, 2% & 4% flows for Ruby Creek at the same points as in our 1973 Hearing Plans. Copy of 1973 design flows is attached. Thanks.

PLEASE REPLY TO → SIGNED Bill Carlsen

Answers on last page.

each	Q 1%		2%		4%		
60-7	190* ~~204.8~~	(cfs)	170* ~~172.8~~	(cfs)	~~157.6~~	(cfs)	*: Corrected
5B-6C	230* ~~348.4~~	"	210* ~~283.2~~	"	~~228.6~~	"	values based
1-43	260* ~~509.8~~	"	240* ~~412~~	"	~~322.4~~	"	on green book

All values corrected for L.A. reductn x(-20%) and interpolation

DATE Oct/21/1977 SIGNED Joseph F. Parsons

Saah 8/22/79

SEND WHITE AND PINK COPIES WITH CARBONS INTACT. PINK COPY IS RETURNED WITH REPLY.

FC-141 (7-1-75)

John Richardson

Ruby Creek at Lake Cunningham,
File 78599

W. F. Carlsen

September 13, 1979

This is to summarize our meeting of September 11, 1979 regarding Ruby Creek from just west of White Road to its connection with the channel downstream, now being constructed as part of Phase I of the Lake Cunningham project. Those attending were:

Bob Kenton - City of San Jose
John Guisto - City of San Jose
Kent Dewell - City of San Jose
R. Robertson - City of San Jose
A. Mendoza - City of San Jose
Charles Kahr - George Nolte & Associates
Ed Miller - HMH
Jim Harper - HMH
John Richardson - SCVWD
Bill Carlsen - SCVWD

As part of Phase II of the Lake Cunningham project Ruby was to be installed in an 84-inch pipe from just west of White Road to about 1,000 feet downstream to the open channel now being constructed. The District was to contribute $513,100 to cover this and other work in Phase II. This District was to contribute this money after the enlargement of Lower Silver Creek downstream of Lake Cunningham.

Jim Harper advised that a condition of their tentative map on the Whittaker property was that Ruby Creek was to be built by the developer to just west of White Road. They are ready to proceed on their project now.

Bob Kenton and Kent Dewell of the City of San Jose Public Works Department also want the 1,000 feet of pipe installed so they can proceed with widening White Road.

John Richardson advised that the District could not advance the money until Lower Silver Creek downstream of Lake Cunningham was completed. This schedule was now indefinite and depended on an SCS study.

John Guisto said he would check with Tony Turturici and others to see if the money for constructing this pipe could be advanced now so that it could be constructed along with the HMH project. An alternative to this would be an open channel, but this would be at least 50 feet wide and would cause either a serious impact on the future width of White Road or cause removal of one of the park berms. This alternative although less expensive would require funding from some source other than the District.

ORIGINAL SIGNED BY

Division Engineer
Design Coordination Division

cc: W. Carlsen, D. Lawrie, K. Reiller, A. Codiroli, E. Sullivan
WFC:mw

#A0358 file

AGENDA MEMORANDUM

AGENDA DATE 5/2/78 ITEM NO. 4 UNIT Design and Construction

ZONE E-1 PROJECT NO. 4026 NAME Lower Silver Creek - Lake Cunningham Park

SUBJECT: Agreement Between the City of San Jose and Santa Clara Valley Water District for Land Acquisition, Construction and Operation of Lake Cunningham Park

EXPLANATION:

This Agreement, between the City of San Jose and the Santa Clara Valley Water District, sets forth City and District responsibilities relative to land acquisition, construction and operation of Lake Cunningham Park. The park is located in the District's East Zone adjacent to Lower Silver Creek near Cunningham Avenue. In addition to its recreational uses, the park can function as a flood detention basin for storing peak flood flows on Lower Silver Creek and Flint Creek.

The City will acquire fee title to all park lands, including those now held by the District, and grant the District an easement to all park lands. The City will also be responsible for the design and administration of all construction projects for the park. The District will review and approve all construction plans and specifications.

The District's contribution for the construction of Lake Cunningham Park is estimated to be $2,356,700. This contribution is based on the cost of flood control facilities within the planned park area and on a reduction in capacity of Lower Silver Creek downstream of the planned park. This reduction is made possible by reservoir storage of flood waters within the park. The proposed contributions would be adjusted by the Engineering News Record Construction Cost Index at the time expenditures are made. The first phase of construction will be an interim grading project. This project, proposed to be funded by the District, is estimated to cost $1,843,600 and is tentatively scheduled for construction in late fall 1978. The interim grading will raise the level of flood protection downstream of Cunningham Avenue from a 30-year level to a 48-year level. The remainder of the District's contribution for the park would be made when the one percent flood protection measures to Lower Silver Creek and Thompson Creek are complete.

The District will be responsible for maintaining the flood control features of the stream channels within the park. The City will be responsible for maintaining the recreational-related features of the park, including repairs necessary as a result of inundation of park lands.

The City of San Jose has approved the Agreement.

RECOMMENDATION: That the Chairman be authorized to execute the Agreement.

AUTHORIZED

MAY - 2 1978

4-25-78
129

#A0358

AGREEMENT

BY AND BETWEEN CITY OF SAN JOSE AND SANTA CLARA VALLEY WATER DISTRICT REGARDING LAKE CUNNINGHAM PARK

CITY OF SAN JOSE, a municipal corporation of the State of California, hereinafter "City"; and

SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California, hereinafter "District";

AGREE this 2nd day of May, 1978, as follows:

RECITALS:

A. City plans the acquisition of property for and the creation of Lake Cunningham Park, hereinafter "the park".

B. The park development is planned for the area bounded by Cunningham Avenue, White Road, Tully Road and Capitol Expressway. In addition to containing recreational features and facilities, the park plan will include the following flood control features:

Provide a Lower Silver Creek Channel to 1% capacity.

Provide a Flint Creek Channel to 1% capacity.

Provide a Ruby Creek Channel to 1% capacity.

Construct channel flood flow control structures and weirs.

Provide a minimum of 380 acre-feet of flood storage capacity below elevation 125.0 feet.

Provide a minimum of 860 acre-feet of flood storage capacity below elevation 130.0 feet.

C. District, relying on implementation of said park plan by City and the consequent effect upon flood flows in the downstream channel of Lower Silver Creek, has reduced the planned size to which District will construct said channel.

D. The governing bodies of the contracting parties, having found it to be in the interest of their respective jurisdictions, intend by this agreement to provide for a just and appropriate division of responsibility in and about the creation and maintenance of the park and its functions of public recreation, open space, visual amenities and flood control benefits.

E. As an element of such division of responsibility, District will assist in the creation of said park by making a monetary contribution to the cost of the necessary construction work, which contribution will be based upon and limited to the cost of facilities within the planned park area and on Lower Silver Creek downstream thereof that, by reason of anticipated flood control benefits of park construction, will not have to be built. The cost of building said facilities is estimated by the parties to be Two Million Three Hundred Fifty-Six Thousand Seven Hundred Dollars ($2,356,700) (March 1978 Cost).

AGREEMENT:

1. In accordance with the California Environmental Quality Act, City is the lead agency with respect to the project, and District is a responsible agency with respect thereto. The rights and duties of the parties hereto depend upon prior full compliance with said Act.

2. (a) City will undertake and complete the acquisition of title to lands and rights of way (other than those held by District) necessary to the creation of the flood control features of the park plan. If such acquisition is not complete on or before September 1, 1978, this agreement shall be void altogether.

(b) Promptly upon completion of said acquisition, District will transfer to City the fee title of lands within the park now held by District. Simultaneously City will transfer to District an easement on lands of City in the park, the permitted uses of which shall be defined as follows:

> "Santa Clara Valley Water District ("District") may enter upon the described lands for maintenance and protection of the same to prevent erosion or other damage by flood or storm waters or to repair such damage or to prevent or correct a physical condition thereon threatening damage by flood or storm waters to lives or property and District may take all measures appropriate to such purposes; provided, that on no account may District perform any work of improvement or construction which is incompatible with a park use of said lands; further provided, that structural measures are permitted with the prior written approval of the Director of Public Works of the City of San Jose, which shall not unreasonably be withheld."

3. There is attached hereto, marked "Exhibit A" and made a part hereof, a schedule of flood control related construction work to be done showing such work to be in two stages, viz: Phase A and Phase B.

4. (a) Upon completion of property acquisition, District shall promptly pay to City One Hundred Thousand Dollars ($100,000)

and thereafter City will promptly prepare plans and specifications for the construction of the flood control related features listed under Phase A on Exhibit A hereto. District will have reasonable opportunity to review the same. Upon approval by District of the plans and specifications for the said flood control related features, City shall, in accordance with its lawful procedures, obtain all necessary permits and secure construction bids for the work. The parties intend that such construction shall begin prior to April 1, 1979. Within thirty (30) days following written notification to District that City has received bids and intends to award a construction contract for the work, District will promptly pay to City the sum of One Million Eight Hundred Forty-Three Thousand Six Hundred Dollars ($1,843,600), adjusted in accordance with the "Engineering News Record" Construction Cost Index (the March 1978 Construction Cost Index = 250.68 based on a 1967 base = 100), less the One Hundred Thousand Dollars ($100,000) previously paid for design purposes. During any period of deposit of such sum prior to its use in payment of the construction contract, interest earned by City thereon shall be credited to District.

If bids exceed said amounts, City may redesign and rebid the work to attempt to perform the work within said amounts provided that such redesign does not reduce the flood control benefits of the present design and master plan.

(b) At the time, now deemed to be not later than 1986, that District completes enlargement of Silver Creek downstream of the said park area, District will contribute to City in the manner stated in (a) above a sum representing the difference between said One Million Eight Hundred Forty-Three Thousand Six Hundred Dollars ($1,843,600) and the total sum of Two Million Three Hundred Fifty-Six Thousand Seven Hundred Dollars ($2,356,700) mentioned in Recital E above, and City will proceed to construct the work shown as Phase B in said Exhibit A; provided that said sum so to be contributed shall be subject to adjustment in accordance with the said Construction Cost Index.

5. Every review by District of City's plans and specifications for construction or reconstruction of features and facilities in the park shall be for the purposes of determining their effect upon the flood control function of the park and shall in no degree be for the purpose of judging or determining upon their suitability for safe and proper public recreational use.

6. City shall require its contractor or contractors on the contract or contracts for work done pursuant hereto to meet applicable equal employment opportunity standards and to take out, pay for and maintain during the construction period, public liability and property damage insurance in form and to limits of liability acceptable to City and District, insuring both parties and their respective officers and employees as named insureds from and against any and all loss or liability for damages, death or injury arising out of or in any way resulting from the construction.

2356,700
1843,600
513,100

7. It is understood that works in the park constructed for flood control purposes are designed to permit inundation in stages above a certain level of park lands by floodwaters from Lower Silver Creek and Flint Creek, and City shall not hold District responsible for such planned inundation or for a damaging result, if any, to City property or personal injury to City officers or employees caused by such inundation, the configuration of areas of the park beyond the lake itself being intended as providing a basin for the temporary storage of flood flows.

8. District will be responsible for maintenance for flood control uses of the channel of streams within the park and of flood control structures of and appurtenant to such streams. City will be responsible for maintenance for recreational uses of the park lands, and all structures and facilities therein and such responsibility of City shall include maintenance in a safe, sightly and sanitary condition of the channel of streams and structures in and appurtenant thereto for the purpose of recreational uses thereof, excluding, as aforesaid, maintenance of such channels and structures for the purpose of flood control uses thereof.

9. City shall have and exercise complete control of recreational and public visitor uses of the park including the care of public safety and sanitation, and City shall indemnify, defend and save harmless District, its officers and employees from loss or liability for every damage, death or injury or claim thereof arising from or howsoever occasioned by City's use of said park lands and facilities including public visitor uses thereof or from public use of adjacent premises of District occurring in consequence of City's use of said park lands, and/or by City's exercise or failure to exercise its maintenance and/or supervision responsibility hereunder. District shall indemnify, defend and save harmless City, its officers and employees from loss or liability for every damage, death or injury or claim thereof occasioned by District's entry upon said park lands and its exercise or failure to exercise its maintenance responsibility hereunder, whether or not District's fault is joint, concurrent, or successive with fault by other parties.

10. City will, at its cost, repair damage to District works in the park caused by City, its employees, agents or contractors or by public use. District will, at its cost, repair damage to City's park property caused by District, its employees, agents or contractors.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

CITY OF SAN JOSE, a municipal corporation of the State of California

By: J. G. Hoyes
Mayor

"City"

SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California

By: Maurice E. Dwelle
Chairman, Board of Directors

"District"

ATTEST:

FRANCIS L. GREINER

By Dannie Perkins Deputy

City Clerk

ATTEST: VIOLET V. ENANDER

Clerk of the Board of Directors

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

General Counsel

Address: 801 N. First Street
San Jose, CA 95110

Phone: (408) 277-4000

Address: 5750 Almaden Expressway
San Jose, CA 95118

Phone: (408) 265-2600

EXHIBIT A

Flood Control Related Features	March 1978 Cost: Construction Cost and 10% Contingencies	Engineering, Inspection, Etc. @ 25%	Total
Phase A, First Stage Grading Project			
1. Grade lake and meadow area to 121' and 120' elevations, respectively.	$ 982,400	$ 245,600	$1,228,000
2. Excavate Ruby & Flint Creeks.	114,800	28,700	143,500
3. Structural channel improvements on Ruby & Flint Creeks.	61,700	15,400	77,100
4. Hydroseed excavated areas.	53,200	13,300	66,500
5. Ruby & Flint Creeks control structure.	28,200	7,000	35,200
6. Lower Silver Creek channel excavate.	247,400	61,900	309,300
7. Less Soils investigation contract.		- 16,000	- 16,000
Subtotal	$1,487,700	$ 355,900	$1,843,600
Phase B, Second Stage Project			
1. Lower Silver Creek			
a. Structural channel improvements	$ 215,100	$ 53,800	$ 268,900
b. Control structure	44,300	11,100	55,400
2. Ruby Creek (through Meyer's property)			
a. Excavation	7,800	2,000	9,800
b. 84-inch RCP	67,200	16,800	84,000
3. Lower Silver Creek weir	42,100	10,500	52,600
4. Ruby/Flint Creek weir	11,100	2,800	13,900
5. Outlet control structure	22,800	5,700	28,500
Subtotal	$ 410,400	$ 102,700	$ 513,100
TOTAL	$1,898,100	$ 458,600	$2,356,700

WFC

File: City of San Jose Sub'd
Ruby Creek
Nly/s of Tully Road
Wly of Klein Road

August 15, 1979

Re: Ruby Creek Retention Basin
79A739, 79S584A

Ms. Hazel Hall
Klein Road Homeowners Association
2456 Klein Road
San Jose, California 95122

Dear Ms. Hall:

As requested in your letter of August 8, 1979, we will keep you informed of any public meetings or hearings associated with the project on the Ruby Creek headwaters near Klein Road. We may not be aware of all the meetings regarding the subdivision itself so we suggest you also contact the City regarding this matter. We will also send you copies of correspondence we initiate regarding the Ruby Creek project.

Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

cc: Mr. Ken Hankins
HMH, Inc.
Mr. William Phillips
Zoning Administrator
City of San Jose
Mr. E. R. Toschi
Engineering Services
City of San Jose
J. O'Halloran
J. Richardson
W. F. Carlsen
D. Lawrie
A. Codiroli
E. Sullivan

WFC:mw

TRANSMITTAL REQUEST
FC 638 (11-30-78)

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 2

File: City of San Jose Sub'd
Ruby Creek
Nly/s of Tully Road
Wly of Klein Road

Re: Ruby Creek Retention Basin
79A584A, 79S584A

TO: Mrs Hazel Hall
2469 Klein Road
San Jose, Calif.
95122
ph. 238-0644

HERE IS THE MATERIAL YOU REQUESTED.
copy our letter 6 Aug 79
& map.

SIGNED: Bill Carlson

DATE: Aug 9, 1979

8/10 ORIS EHS
WFC
Same to STO
GSK
LCF

Klein Road Homeowners Assoc.
2456 Klein Road
San Jose, Calif. 95148
August 8, 1979

Mr. Bill Carlsen
5750 Almaden Expressway
San Jose, Calif. 95118

Dear Mr. Carlsen:

We have heard there is a proposed Project located at Ruby Creek headwaters adjacent to Klein Road.

We the Klein Road Homeowners Association would like to be placed on an informational mailing list concerning any proposed project on this site. We would also like to be notified of any public hearings or meetings associated with this project. We are deeply concerned with our area and this is the basis for requesting this information.

If there are any problems associated with this request, please notify the undersigned.

Sincerely,

Hazel Hall

Hazel Hall
President
Klein Road Homeowners Assoc.

Santa Clara Valley Water District

MAILROOM ROUTING SLIP

FC 364B (06-27-79)

No.	Name	Initial	1979	Code	Comments
	O'HALLORAN				
	EKSTRAND				
	ESAU				
	FOWLER				
	GARRETT				
	HENLEY				
	WILSON				

No.	Name	Initial	1979	Code	No.	Name	Initial	1979	Code	No.	Name	Initial	1979	Code
	O'HALLORAN					WILSON					EKSTRAND			
	Esau					Finance					Central Files			
	Flores					Francis					Library			
	Holley					Fujita					Lowrance			
	Melton					Simons					Marovich			
	Personnel					Smith								
	GARRETT					KORBAY					FOWLER			
	Bundy					Burger					Roman			
	Bramblett					Carlsen								
	Donnell					Hall								
						Lawrie								
	BEAUDET					Richardson					GILL			
	Erling					Wilson					Cotton			
	Kriege										Cournoyer			
	Pardini										Ferguson			
	Regadanz										Sutcliffe South Co.Office			
											Watson			

Action Codes
A. Rush
B. Contact Me
C. Follow-up
D. Comment
E. Action
F. Information
G. Return
H. File
I. Approval
J. Signature
K. Prepare response
L. Coordinate

Remarks:

ORIGINAL LETTER IS IN CENTRAL FILES. PLEASE RETURN THIS COPY TO CENTRAL FILES ONLY IF THERE ARE ENCLOSURES OR ATTACHMENTS.

Lake Cunningham

natural - 1% WS = 131.0

storage = 240 Ac Ft

Discharge

1st stage storage @ elev 128.0' — sq 480 1500

storage @ " 131.0' 200 Ac site (1000) 1500

ultimate 1% elev 128.1 storage 480 Ac Ft

→ 3300

from Bruce McClish

14 Aug 79

1st stage Q = 1500

ultimate = 3300

Carlson

File: City of San Jose Sub'd
Ruby Creek
Nly/s of Tully Road
Wly of Klein Road

August 6, 1979

Re: Ruby Creek Retention Basin
79A584A, 79S584A

Mr. Ken Hankins
HMH, Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Ken:

Following are the current flows and design criteria which should be used to design the sediment control facilities and pipe system:

Sediment Control Facility

1% flow	-	173 cfs
4% flow	-	116 cfs

The sediment control facility and pipe inlet on the main branch should be designed so that the water surface in the basin is at least three feet below the emergency spillway outlet during the four percent flood. Also, the water surface in the basin should be below the emergency spillway outlet during the one percent flood. The emergency spillway should be designed to convey the four percent flow with two feet of freeboard and the one percent flow without overtopping the sediment control facility, assuming blockage of the main spillway. The emergency spillway should be designed to outfall into a street that would convey the flows directly to the Ruby Creek open channel that will start downstream of White Road.

The basin should be self-draining with a maximum bank slope of 3:1. If the dam has a height greater than 25 feet from the bottom of the natural streambed at the downstream toe to the bottom of the main spillway, it must also be built to State standards and under State supervision.

As you requested, we have looked at alternative means of access to the recommended 22-foot access road westerly of the sedimentation facility. Our Maintenance Department believes that they can maintain the basin with the following access provisions which are shown on the attached map.

1. A 100 x 30-foot flat area (with a minimum slope for drainage) be provided between future Tully Road and the old barn.

2. An access ramp be provided into the basin from this flat area down the catch point between the Tully Road fill and the natural ground. Slope should not exceed 10%.

3. A flat area (with a minimum slope for drainage) be provided at the upstream end of the basin downstream of Klein Road. The pipe under Klein Road should be about 50 feet longer than it presently is and the flat area would be over this pipe. Transitions for erosion protection should be provided at the inlet and outlet. The pipe under Klein Road should be designed to carry the four percent flow with two feet of freeboard.

The basin side slopes and fill, adjacent to Klein Road and on the opposite bank, should be checked by an engineering geologist to see they they would be stable when the basin is full of water, during an earthquake or under rapid draw down conditions. If Klein Road would be unstable, then remedial measures such as retaining walls, road relocation, etc. should be proposed for our review. The safety of the house and barn on the northwesterly side of the basin should be checked to see if they would be stable under the same conditions as above such as rapid draw down, etc.

Pipe System

The pipe system should have the capacity to convey the two percent flood ("50-year flood") plus freeboard. Freeboard should be determined by the capacity to convey the one percent flood in a closed conduit with the hydraulic grade line at or below the ground surface.

Reach	1% (cfs)	2% (cfs)
Ruby Avenue to Sedimentation Facility	205	173
Vista Verde Drive to Ruby Avenue	342	283
Silver Creek to Vista Verde Drive	505	412

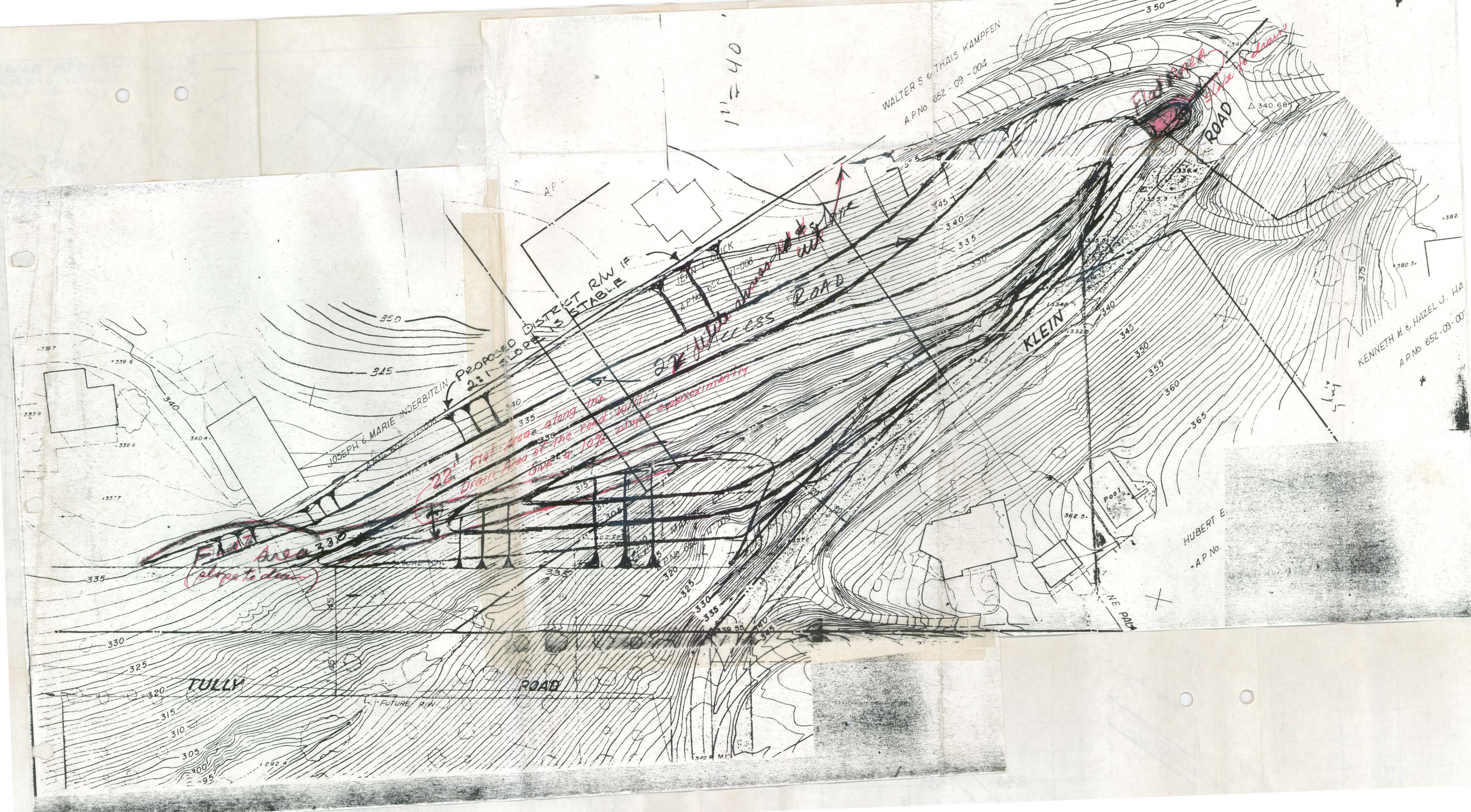
Please send detailed plans for our review and issuance of a permit.

Yours very truly,

W. F. Carlsen
Division Engineer
Design Coordination

Attachment
cc: Mr. William Phillips, Zoning Administrator, City of San Jose
Mr. E. R. Toschi, Engineering Services, City of San Jose
J. Richardson, W. Carlsen, D. Lawrie, K. Reiller, B. Tepel
D. Erling, A. Saah, A. Codiroli, E. Sullivan

WFC:mw


1" = 40'
WALTER S & THAIS KAMPFEN
A.P. No 652-09-004
Flat area (slope to drain)
ROAD
KLEIN
KENNETH H. & HAZEL J. HA
A.P. No 652-09-00
HUBERT E.
A.P. No.
POOL
NE PAL
JOSEPH & MARIE INDERBITZIN
A.P. No 652-11-000
PROPOSED DISTRICT R/W IF ESTABLE
23' SLOPE
22' Flat Area along the Drain Area of the road width and 10% slope approximately
Flat area (slope to drain)
TULLY
ROAD
FUTURE R/W

memorandum

TO	FROM
W. F. Carlsen	Robert Tepel
SUBJECT Ruby Creek Sedimentation Facility - File 78599	DATE August 1, 1979

As you requested in your memo of July 25, 1979, I have visited the site, studied Terratech's report, and offer the following comments:

1. Although the report is adequate as far as it goes, slope stability analyses of the entire slopes on both sides of Ruby Creek should be performed. The analyses should take drawdown conditions into account. The calculations should be done with or without the access road cut, whichever is more conservative in the consultant's judgement, to determine the safety of the house.

2. If the requested access road is built, design of the cut slope below the house should include a paved brow ditch. Planting the slope to minimize erosion is also suggested. A 15-foot clearance between the structure and the top of cut or edge of brow ditch is suggested.

3. I am concerned about the stability of Klein Road and the adjacent basin slope. Because of the possibility of retained waters saturating fill of questionable competence downslope of Klein Road, the developer's consultant should be asked to inspect the fill and comment on its stability under operating conditions as part of their stability analysis of the southeast slope of the basin.

4. We should specify approximate operating elevations and rate of fill and drawdown.

Robert R Tepel

Engineering Geologist
Geology and Water Quality Division

cc: E. Watson
D. Lawrie
D. Erling
K. Reiller
A. Codiroli
G. Sullivan
R. Tepel

RET:lam

memorandum

TO	FROM
Mr. Bob Tepel	Bill Carlsen
SUBJECT	**DATE**
Ruby Creek Sedimentation Facility File No. 78S99	July 25, 1979

A developer is proposing to install a sedimentation facility just upstream of of the proposed extention of Tully Road on Ruby Creek.

We have requested that an access road be installed adjacent to the basin because access from Klein Road is not adequate. In conjunction with this, we asked for a slope stability report showing whether the cut slope above this proposed access road was stable. Attached is the requested report which essentially states that the slope would be stable. A house is located directly above the proposed cut slope so that is why we asked for the report. The attached plan shows the house location and proposed sedimetation facility. Could you review this report, visit the site and then let us know if you think this house would be safe after the bank was cut back. The report does not appear to consider saturation of the channel banks due to ponding in the debris basin.

A further question has been raised by the developer in that they are trying to convince us that the access road mentioned above is not necessary. We will discuss this further with maintenance. However, could you also advise whether you think this house could be safe if the access road were not installed. It appears to me that ponding in the proposed sedimentation facility could cause increased bank stability problems.

If you need any further information or believe further soils testing is needed please let me know.

ORIGINAL SIGNED BY

Division Engineer
Design Coordination Division

Attachments

cc: John Richardson
Bill Carlsen
Don Lawrie
Don Erling
Ken Reiller
Al Codiroli
Gene Sullivan

WFC:mw

TO ABDULLAH LADH

Santa Clara Valley Water District

Inter-Office Memo

SUBJECT: Q's for Ruby Creek

DATE: 7/13/79

Please provide us with 1% and 2% Q's for Ruby Creek at the location shown on attached map. Thank you...

PLEASE REPLY TO → SIGNED Kenn Reiller

DATE

SIGNED

FC-141 (7-1-75)

DETACH THIS COPY - RETAIN FOR ANSWER

4019AA

IDENTICAL LETTER SENT TO ATTACHED LIST OF ADDRESSEES

December 20, 1978

Project: Ruby Creek

File No: 4019

Joseph & Marie Inderbitzin
2496 Ruby Avenue
San Jose, California 95122

Dear Mr. & Mrs. Inderbitzen:

As part of the solution to flooding problems in the Ruby Creek Watershed downstream from your property, a sediment control facility is proposed in the canyon near Klein Road. Such a facility would store storm runoff temporarily so that much of the silty material would be trapped in a basin rather than clogging downstream facilities.

A potential developer of land in the watershed may be required to construct the sediment control facility. In order to determine design criteria, it is necessary to do some soil testing within the portion of your land outlined on the attached map. The work will consist of drilling test holes and digging test pits. The holes or pits will be refilled with the soil that has been removed.

Every effort will be made to not damage your property while this work is being done and none is expected, but if something should be damaged, the District accepts full responsibility and will gladly make repairs.

We are enclosing an original and one copy of a permit authorizing the Water District to enter upon your land and do the work described above. Please sign the original permit and return it in the self-addressed, stamped envelope by January 2, 1979 to avoid delaying the project. You may keep a copy of the permit for your records.

Your help and cooperation in this important work is sincerely appreciated. If you have any questions, please phone the undersigned at 265-2600.

Sincerely yours,

ORIGINAL SIGNED BY

Richard S. Miller
Real Estate Agent
Real Estate Division

Enclosures

RM:DAL:jf

Project: Ruby Creek

File No: 4019

IDENTICAL LETTER (dated 12/20/78) SENT TO FOLLOWING:

APN 652-11-6
Joseph & Marie Inderbitzin
2496 Ruby Avenue
San Jose, CA 95122

APN 652-11-8
Jean L. Glick
2457 Klein Road
San Jose, CA 95122

APN 652-9-14
Walter & Thais Kampfen
2430 Klein Road
San Jose, CA 95122

APN 652-11-9
Bill N. & Maxine Ellis
3319 Pepper Tree Lane
San Bernardino, CA 92404

Project: Ruby Creek

File No. 4019

Name: _____

LIMITED PERMISSION TO ENTER

The undersigned owner(s) of APN _____, hereinafter "Owner", hereby grant(s) permission to the Santa Clara Valley Water District or its authorized agents, hereinafter "District", to enter the real property of the owners within the area shown in red on the attached plat for the purpose of drilling test holes and digging test pits.

The permit is granted SUBJECT to the following conditions:

1). Permission granted herein is not to be construed as a grant of title or any interest to or in the real property affected hereby.

2). District will backfill said test hole boring and/or test pits. The subject area will be restored to a condition equal or superior to that existing prior to work.

3). District will be fully responsible for any damage to the property or Owner arising out of the use of this permit and District shall save and hold harmless Owner from and on account of liability for damage to persons or property of others occasioned by said use.

4). This permission shall terminate upon completion of the work.

Dated: _____ 1978

OWNERS

_____

_____

Mc Clish

May 1, 1978

Mr. John Hamilton
Director
Department of Planning
City of San Jose
801 North First Street
San Jose, California 95110

Dear John:

Our District's policy regarding responsibilities of upstream development has generally been supported by your City but in some situations we have both experienced difficulty in identifying practical on-site or downstream mitigation schemes for increases in flooding resulting from upstream development.

For our East Flood Control Zone at least, we believe we can suggest a practical mitigation procedure as follows:

Flood protection is going to be provided on Lower Silver Creek by two activities, both funded by our District.

1. Enlargement to design flood size of the Silver-Thompson Creek channels over the next nine years. The nine years are based on fund availability.

2. An interim raise in protection levels on Silver Creek by excavation of flood detention storage at Lake Cunningham.

The Cunningham excavation is proposed since we have identified this work as being the most effective thing we can do quickly to increase flood protection. If we were not to use these funds in Lake Cunningham Park, the enlargement work on Silver Creek could be done in some time less than nine years.

Now, since we know how much the Lake excavation work will increase downstream protection, how much it costs and how much the increased protection level would be reduced by additional upstream development, we can state a formula for monetary contribution by upstream development for mitigation of increased downstream flooding. Such funds would be used to accelerate the channel enlargement work. The following paragraphs explain the mitigation cost-sharing approach:

The level of flood protection downstream of Cunningham Avenue will be raised from the 30-year to the 48-year level by the interim grading project. The present schedule for the interim grading project is to have construction started in the latter part of 1978.

Our analysis shows that when all upstream tributaries have been developed, the 48-year level of protection would be eroded to about a 37-year level of protection. This reduction has also been determined on an individual watershed basis. Using the total cost of the interim grading project ($1,859,600) and the total increase in protection provided (48-year versus 30-year) the cost per year of protection comes to about $100,000. This results in the following mitigation cost for each watershed.

Watershed	Reduction in Protection	Cost
Flint Creek	2 year	$200,000
Ruby Creek	1.5 year	150,000
Quimby Creek	2 year	200,000
Fowler Creek	3 year	300,000
Evergreen Creek	2 year	200,000

These costs would be adjusted at the time the mitigator made the contribution in order to compensate for changes caused by inflation. If the one percent flood protection measures for Lower Silver Creek and Thompson Creek are completed prior to development in a tributary watershed, the District would not require mitigation reimbursement.

Sincerely yours,

ORIGINAL SIGNED BY

George Korbay
Design and Construction Manager

cc: Mr. John Eastus
Assistant Director of Public Works
City of San Jose

G. Korbay
J. Richardson
B. McClish
B. Goldner

JLR:GK:BMM:mw

Carlsen

File: City of San Jose Sub'd.
Ruby Creek
Nly/S of Tully Road

Re: Preliminary Plans for
Ruby Creek Retention Basin
78A292, 78S292

April 17, 1978

Mr. Jim Harper
HMH Incorporated
1415 Koll Circle
Suite 107
San Jose, California 95112

Dear Jim:

This is in reply to your letter of March 15, 1978 regarding the proposed sediment control facility for Ruby Creek.

The attached marked plan shows the proposed location of the access road adjacent to the basin. If a 2:1 slope for the road was stable, the property required would be as shown. However, we do not have any detailed geology study for this area. Therefore, a detailed geology study should be done to determine if a 2:1 cut is satisfactory. If not, the houses adjacent to the cut would need to be moved or a retaining wall installed as the access road cannot be moved any closer to the basin.

In reference to your question regarding condemnation of land for the sediment control facility the District could, if necessary, condemn the land required. It would be necessary for our District to enter into a contract with the developer for this purpose. Such contract would be subject to approval by our Board of Directors, and must specifically provide that the land and the facility will be for a public use.

Very truly yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

Enclosure

cc: A. Henley
J. Richardson
W. Carlsen
D. Lawrie
D. Erling
A. Codiroli
E. Sullivan

WFC:slf

3/17 Orig EHS W/A
JLR

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

March 15, 1978
Job No. 206-76

Mr. John Richardson
Head, Project Development Branch
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Lands of Whittaker
Ruby Creek

Dear Mr. Richardson,

Enclosed are two preliminary prints of the proposed Ruby Creek Retention Basin area. Val West is the developer of the adjacent Lands of Whittaker and is currently negotiating with property owners to acquire property for the proposed retention basin site.

Should Val West be unable to acquire the necessary property for the proposed retention basin, wiil the District, if requested, pursue acquisition by condemnation proceedings? We would appreciate your preliminary review and comments concerning the proposed retention basin.

Thank you for your consideration regarding this matter.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/cm
Encl.
CC: Mr. Mike Valley, w/encl.

Carlsen

File: City of San Jose Sub'd.
Ruby Creek
Ely of Ruby Avenue
Sly of Tully Road

Re: Tentative Map for Valwest
File Number T78-1-7
78A99, 78S99

February 15, 1978

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Department
City Hall Annex-Fourth Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to your letter of January 25, 1978 regarding the tentative map for Valwest at the southeast corner of Tully Road and Ruby Avenue, your File Number T78-1-7.

A portion of the site is subject to flooding from the 1% flow on Ruby Creek. Ruby Creek improvements have not been scheduled. Any filling, diking, or grading to flood proof the site could cause an increase in flooding of other properties.

The general layout of the site would be satisfactory; however, the site is located in Phase Three of the City of San Jose's Evergreen Development Policy and is therefore subject to the flood protection criteria contained in that policy.

Our letter of October 5, 1977, copy attached, would cover our comments and remains unchanged for this application.

Yours very truly,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Attachment

cc: HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi
J. Richardson, W. Carlsen, A. Codiroli and E. Sullivan

WFC:sfg

Carlsen

File: City of San Jose Sub'd.
Ruby Creek
Wly of Ruby Avenue
Sly of Tully Road

Re: Tentative Map for Valwest
File T-77-11-216
77A1121, 77S1121

December 9, 1977

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Departmnet
City Hall Annex-Fourth Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to your letter of November 15, 1977, regarding the tentative map for Valwest at the southwest corner of Tully Road and Ruby Avenue.

A portion of the site is subject to flooding from the 1% flow on Ruby Creek. Ruby Creek improvements have not been scheduled. Any filling, diking, or grading to flood proof the site could cause an increase in flooding of other properties.

The site is located in Phase Three of the City of San Jose's Evergreen Development Policy and is therefore subject to the flood protection criteria contained in the policy.

Our letter of October 5, 1977, copy attached, covers our comments in detail and remains unchanged for this application.

Yours very truly,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Attachment

cc: HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi
J. Richardson, W. Carlsen, A. Codiroli and E. Sullivan

WFC:sfg

Carlson

File: City of San Jose Sub'd.
Ruby Creek
Wly of Ruby Avenue
Sly of Tully Road

Re: Rezoning Map for Valwest
File C76-12-180
76A1104, 76S1104

October 5, 1977

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Department
City Hall Annex - Fourth Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to your letter of September 20, 1977, regarding the proposed rezoning application of Valwest (C76-12-180).

We have reviewed the material furnished with your letter and wish to advise how we believe this proposal relates to the Evergreen Development policy.

The proposed development is in Phase 3 of the Evergreen Development policy which has the following criteria:

a. Development would be allowed provided it would not be subject to flooding from the 100-year flood. (No water past the back of walk.)

b. Development would be allowed provided it would not divert flood or overland flows onto or cause flooding on other properties.

c. Development would be allowed in a watershed provided the tributary stream is constructed from Silver-Thompson Creek to a point which satisfactorily controls the headwaters for development within the watershed. Developers within the watershed will be responsible for all funding of tributary streams.

d. Development would be allowed in a watershed provided the reach of Silver-Thompson Creek from the point of connection of the watershed's tributary stream to Cunningham is constructed to the 100-year flood standard.

The proposed development meets item "a" as it would not be subject to flooding from the 100-year flood after completion of the proposed construction (by the developer), of the Reach of

Ruby Creek from about 500 feet east of Flint Avenue to and including the sedimentation control facility.

It meets item "b" as it would not cause any significant increase in flooding on other properties, in fact, the proposal does reduce flooding of developed property in the immediate proximity of the project.

It does not meet item "c" in that the development does not include construction of Ruby Creek from the Silver-Thompson (Lake Cunningham) confluence to a point about 500 feet east of Flint Avenue.

Regarding item "d", Ruby Creek will eventually connect to Lake Cunningham so construction of any part of Silver-Thompson does not appear applicable. However, the Districts plans to construct a first stage project in the Lake Cunningham area depend on results of the current Lake Cunningham park condemnation proceedings by the city. It is not known how long this will take or the final result. If this project does not go ahead then Ruby Creek would have to be connected to Silver-Thompson.

Although not a part of the Evergreen Development Policy, the Water District has a policy that if upstream development increases downstream flooding such increases should be mitigated. The downstream area we are concerned about relative to the proposed development is the area north of Cunningham Avenue. Our analysis shows that no increase in downstream flooding will occur. The sediment control facility to be constructed by the developer provides some on-site detention of flood waters and this coupled with the fact that the Ruby Creek will not be channelized to Lower Silver Creek leads us to this conclusion.

Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

cc: HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi
City of San Jose
Planning Department
Attention Mr. Noel Ameele
J. Richardson
W. Carlsen
A. Codiroli
E. Sullivan

WFC:sfg

Carlsen

File: City of San Jose Sub'd.
Ruby Creek
Wly of Ruby Avenue
Sly of Tully Road

Re: Rezoning Map for Val West
File C76-12-180
77A1058, 77S1058

November 10, 1977

Mr. Ken Hankins
HMH, Incorporated
1415 Koll Circle
San Jose, California 95112

Dear Ken:

This is in reply to your request for an up-to-date cost estimate on the proposed Ruby Creek flood protection works.

We have the up-to-date hydrology and have redesigned the project using the 2% flood as the design flow with the hydraulic grade line of the 1% flow to be contained below the ground surface. The only resulting change to our existing plans would be to change the 48-inch RCP in reach 6B to a 54-inch RCP and to change the 54-inch RCP in reach 6C to a 60-inch RCP. Using current prices, this would increase the total construction plus engineering cost by about $15,000. In addition, the construction and engineering costs in our 1973 preliminary report for Ruby Creek, copy attached, should be adjusted to account for inflation.

These costs are all based on a particular flood protection plan that may change during a review process described as follows. If a special benefit zone is used, then the following steps must be taken to finalize the proposed flood protection plan. The "draft" report prepared in 1973 must be modified to reflect the changes as previously described. An initial study must be completed to determine the environmental concerns and an Environmental Impact Report (EIR) may be necessary. A public hearing must then be held in or near the project area to receive input on the draft EIR and Engineer's Report. Our Board of Directors would then set a public hearing on the final EIR and Engineer's Report. All of this process may result in a different project.

Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

Attachment

cc: Mr. William L. Phillips
City of San Jose
Mr. Noel Ameele
City of San Jose
Mr. E. R. Toschi
City of San Jose
Mr. Don Uyeda, City of San Jose
J. Richardson, W. Carlsen, A. Codiroli, E. Sullivan

HM , INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

SEP 1977
RECEIVED
ENGINEERING SVC

September 1, 1977
Job No. 206-76

Mr. George McKissick
Engineering Services
City of San Jose
North First & Mission Sts.
San Jose, California 95110

Re: Lands of Whittaker
File No. C 76-12-180

Dear Mr. McKissick,

Mr. Noel Amilee of the Planning Department requested that we provide you with additional information regarding the proposed development of this property as it relates to the Evergreen Development Policy.

As a result of our meeting on Tuesday, August 30, we offer the following comments to assist you in preparation of your report to the Planning Department.

The property is within Phase III and presently subject to overland sheet flows from Ruby Creek. The Evergreen Development Policy requires that a contemplated development proposal must adhere to both flood protection and transportation policies as follows:

FLOOD PROTECTION POLICIES

a. Development would be allowed provided it would not be subject to flooding from the 100-year flood. (No water past the back of walk.)

This development will provide for the construction of Ruby Creek to 100 year flood capacity adjacent to the project and upstream to a sediment control facility. The sediment control facility, together with the construction of Ruby Avenue and Tully Road, will contain upstream flows and divert overland flows to Ruby Creek.

b. Development would be allowed provided it would not divert flood or overland flows onto or cause flooding on other properties.

This property is at the upstream reach of Ruby Creek. Overland flows accepted onto the property would be diverted into existing or proposed

September 1, 1977
Mr. George McKissick
Job No. 206-76

?

flood control facilities. An interim 'bubble box' facility will provide some retention of drainage flows prior to discharge into the existing surface drainage ditch within the Tully Road right of way.

It is anticipated that development of subject property will occur simultaneously or immediately following the interim grading of Lake Cunningham Park in the spring of 1978. Grading of Lake Cunningham Park will include excavation of the channel to accomodate 100-year flood flows on Ruby Creek below White Road.

not completely clear on Bruce McKid

c. Development would be allowed in a water shed provided the tributary stream is constructed from Silver/Thompson Creek to a point which satisfactorily controls the headwaters for development within the watershed. Developers within the watershed will be responsible for all funding of tributary streams.

Weak!!

This condition is inappropriate to subject property since practically the entire Ruby Creek drainage basin within the urban service area has already been developed. As noted above, the project will provide for construction of Ruby Creek adjacent to the project and upstream to a sediment control facility. Additionally, some retention will be provided prior to discharge through use of a bubble box in Tully Road. The facilities provided by the project will tend to reduce and control downstream siltation and flows and are a major contribution towards the ultimate Ruby Creek facility.

d. Development would be allowed in a watershed provided the reach of Silver/Thompson Creek from the point of connection of the watersheds tributary stream to Cunningham is constructed to the 100-year flood standard.

agree

The ultimate confluence of Ruby Creek with Silver Creek is proposed to occur adjacent to Cunningham Avenue and on the northerly side of proposed Lake Cunningham, therefore, this condition would not apply to the proposed development.

TRANSPORTATION POLICIES

1. Development shall be allowed in Evergreen in an incremental, controlled process so that adequate transportation facilities exist to maintain level of service 'D' throughout the study area.

A traffic study for the proposed development has been prepared by Louis H. Larson. His study indicates that level of service D or

September 1, 1977
Mr. George McKissick
Job No. 206-76

better would be maintained following completion of the proposed development.

2. Residential development will be limited to the Phase I and Phase II areas in the original Evergreen Development Policy plus the Villages and traffic analysis zones 252, 320, 321, 324 and 325 in Phase III if flood control improvements allow.

This property is within Phase III and traffic analysis zone 251. The proposed development will provide for improvement of Tully Road and Ruby Avenue adjacent to the site. Both streets are designated as major thoroughfares.

Substantial flood control improvements will also be provided by the proposed development. These improvements should too be termed critical in that upstream design flows will be contained above and through the project limits. Priority designation for development within TAZ 251 was not previously supported because of the undetermined status of Lake Cunningham. Litigation settlement of the property acquisition for Lake Cunningham is anticipated before the end of this year. This would allow interim grading to commence during the spring of 1978.

Since the proposed development is planned to occur simultaneously with or immediately following this grading, support should be given to encourage this development within TAZ 251 based upon similar reasoning used for encouraging development within TAZ's 252 and 320.

We trust the above will allow you to submit a positive response to the Planning Department.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/cm
CC: Mike Valley

GSK LCF

Sediment Cont 70

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

Gen

August 2, 1977
Job No. 206-76

Mr. John Richardson
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Re: Ruby Creek Sediment Control Facility

Dear Mr. Richardson,

We have prepared a proposed profile for the extension of Tully Road and a graph of Storage Capacity vs. Elevation for a sediment control facility on Ruby Creek that would be located on the Northerly side of future Tully Road in lieu of the location proposed on the Plans for Ruby Creek.

Will you please review our proposal and advise us of any comments at your earliest convenience.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/cm
Encl.
CC: Mr. Mike Valley

W Carlsen

File: City of San Jose Subd.
Ruby Creek
Nly/s of Tully Road

Re: Sediment Control Basin
77A777, 77S777

August 15, 1977

Mr. James T. Harper
Vice President
HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Mr. Harper:

We have reviewed your proposed profile for the extension of Tully Road and graph of the storage capacity versus the elevation for a sediment control facility on Ruby Creek sent with your letter of August 2.

The proposed relocation is satisfactory to this District.

Any questions may be directed to Mr. Eugene H. Sullivan, Supervisor of our Permits Section, at extension 257.

Sincerely yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Mr. E. R. Toschi
Engineering Services
City of San Jose

J. Richardson
W. Carlsen
A. Codiroli
E. Sullivan

RAL:JDN:nn

VALLEY REPRODUCTION SERVICES - SAN JOSE, CA

5423

John Richardson JPR
W. Carlson

Santa Clara Valley Water District

Inter-Office Memo

SUBJECT: Ruby Creek DATE: 15 July 77

Drainage area of Ruby Creek above the sedimentation facility is 0.58 sq. miles. According to Debris basin design standards in my memo to you of 21 Mar 73 the desired capacity should be 20 Acre feet per sq mi. x .58 = 11.60 Acre feet. However due to topography, cost etc a smaller size basin was used in Hearing Plans. The capacity to the top of outlet was 4.63 Ac ft. Attached plan shows the calculations. Ken Reiller can answer any questions while I'm on vacation.

PLEASE REPLY TO → SIGNED W. F. Carlson

I gave this information to Jim Hayes via phone on 7/19/77
JPR

DATE SIGNED

SEND WHITE AND PINK COPIES WITH CARBONS INTACT. PINK COPY IS RETURNED WITH REPLY.

FC-141 (7-1-75)

W. Carlsen

File: City of San Jose
Ruby Creek
Sly of Tully Road;
Between Klein and Ruby Roads

July 1, 1977

Re: Preliminary Site Plan for
Valwest
77A532, 77S532

Mr. Jim Harper
H.M.H. Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Jim:

As you requested, we are attaching a plan showing our current planning regarding location of the Ruby Creek Sediment Control Facility.

A portion of the site is subject to flooding from the 1% flow on Ruby Creek. Ruby Creek improvements have not been scheduled. Any filling, diking, or grading to flood-proof the site could cause an increase in flooding of other properties.

The site is located in Phase Three of the City of San Jose's Evergreen Development Policy and is, therefore, subject to the flood protection criteria contained in the policy. When the developer shows that these criteria have been met we would like to make more specific and detailed comments.

Very truly yours,

ORIGINAL SIGNED BY

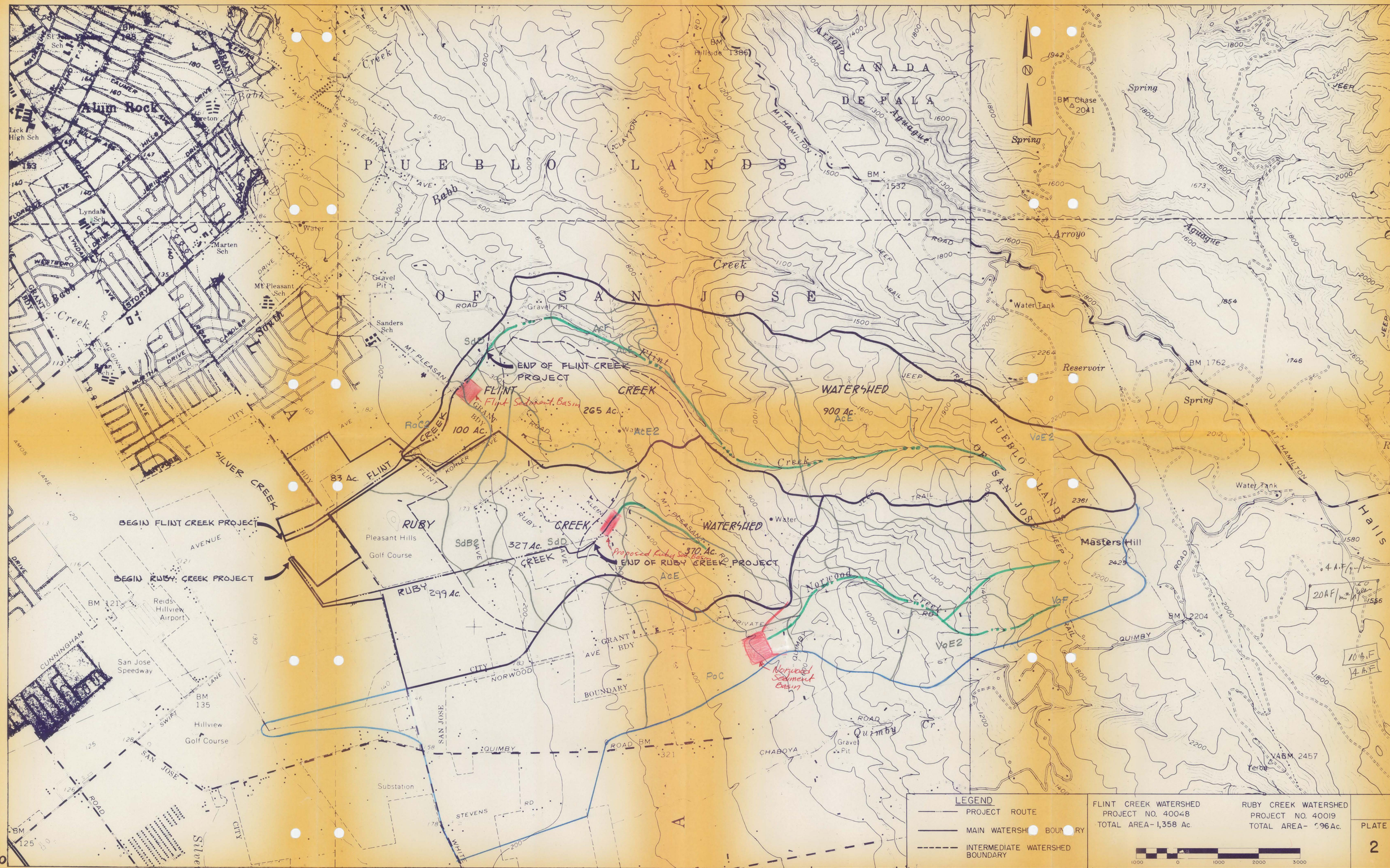
John L. Richardson
Head, Project Development Branch
Design and Construction

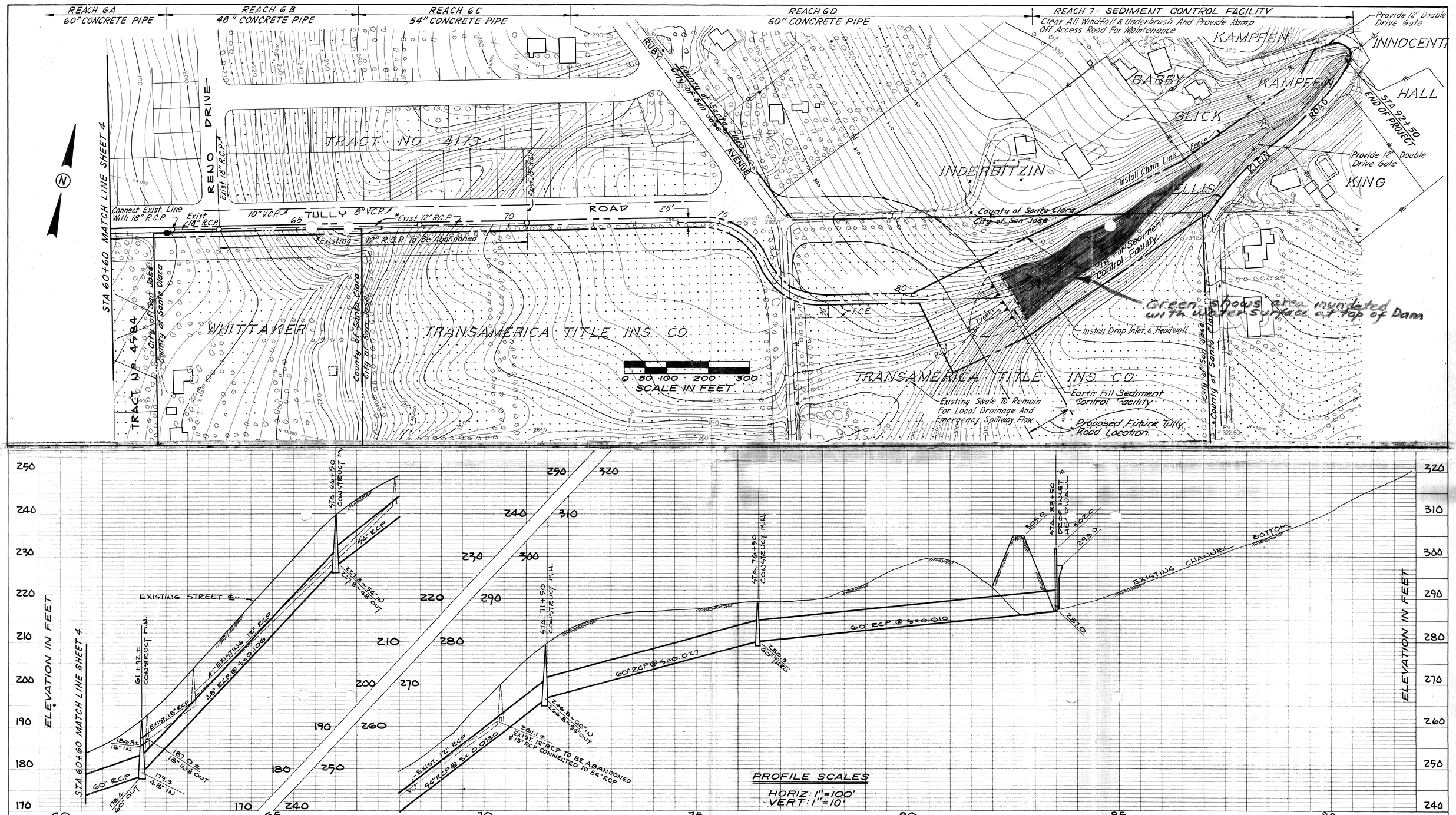
Enclosure: Marked Plan

cc: Planning Department
City of San Jose

J. Richardson
W. Carlsen
D. Lawrie
K. Reiller
A. Codiroli
E. Sullivan

RAL:WFC:nn


PUEBLO LANDS OF SAN JOSE
CANADA DE PALA
Alum Rock
Lick High Sch
Lyndale Sch
Marten Sch
Mt Pleasant Sch
Sanders Sch
Gravel Pit
Water
Babb Creek
Flint Creek
Ruby Creek
Silver Creek
Quimby Cr
Norwood Creek
Aguague
Arroyo
Spring
Reservoir
Water Tank
Masters Hill
Halls
BM Chase 2041
BM 1532
BM 1762
BM 2204
BM 2457
BM 121
BM 135
BM 125
BM Hillside 1386
END OF FLINT CREEK PROJECT
FLINT CREEK WATERSHED
Flint Sediment Basin
265 Ac.
100 Ac.
83 Ac. FLINT
900 Ac.
BEGIN FLINT CREEK PROJECT
BEGIN RUBY CREEK PROJECT
RUBY CREEK WATERSHED
Proposed Ruby Sediment Basin
327 Ac.
370 Ac.
END OF RUBY CREEK PROJECT
RUBY 299 Ac.
Norwood Sediment Basin
Pleasant Hills Golf Course
Reids Hillview Airport
San Jose Speedway
Hillview Golf Course
Substation
20AF/mi²
10AF
4AF
LEGEND
PROJECT ROUTE
MAIN WATERSHED BOUNDARY
INTERMEDIATE WATERSHED BOUNDARY
FLINT CREEK WATERSHED
PROJECT NO. 40048
TOTAL AREA - 1,358 Ac.
RUBY CREEK WATERSHED
PROJECT NO. 40019
TOTAL AREA - 996 Ac.
PLATE 2
3580



REFER TO TRACING FOR LATEST REVISION

REV.	DESCRIPTION	SUB.	APPR.

1. DATE OF PHOTOGRAPHY MAY 15, 1967; MISSION 6714.
2. BASE MAP PREPARED BY GEORGE S. NOLTI CONSULTING CIVIL ENGINEERS, INC. 3850 MIDDLEFIELD RD. PALO ALTO, CALIFORNIA

DATE 9-6-73
DESIGN WFC
DRAWN Hovey
CHECKED WFC

SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT

ENGINEERING CERTIFICATION
PROJECT ENGINEER W. F. Carlson
DIVISION ENGINEER R.C.E. NO. 16684

ENGINEERING APPROVAL
John L. Richardson
HEAD, PROJECT DEVELOPMENT BRANCH R.C.E. NO. 17646

MAP AND GENERAL PLANS

ZONE E-1 (EAST) PROJECT NO. 40019

RUBY CREEK

SCALE AS SHOWN

SHEET 5 OF 5

5026

Check dedicated area

300

325

320'

Not to be included in District Easement if Tully Road located here

80'

150'

225

65'

210

302

304

314

318

320

326

328

330

FUTURE SEWER R/W

255

220

This portion of easement may be in a street.

295

288

307

313

317

323

333

320

330

230

311

318

317

327

305

309

313

326

288

287

303

306

313

313

321

ROAD

Carlsen

File: City of San Jose, Sub'd.
Ruby Creek
Wly of Ruby Ave;
Sly of Tully Road.

Re: Rezoning Map for Valwest
File C76-12-180
76A1104, 76S1104

January 19, 1977

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Department
City Hall Annex - 4th Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to the proposed rezoning application of Valwest (C76-12-180) sent to us on December 10, 1976.

A portion of the site is subject to flooding from the 1% flow on Ruby Creek. Ruby Creek improvements have not been scheduled. Any filling, diking, or grading to flood proof the site could cause an increase in flooding of other properties.

The site is located in Phase Three of the City of San Jose's Evergreen Development Policy and is therefore subject to the flood protection criteria contained in the policy. When the developer shows that these criteria have been met we would like to make more specific and detailed comments.

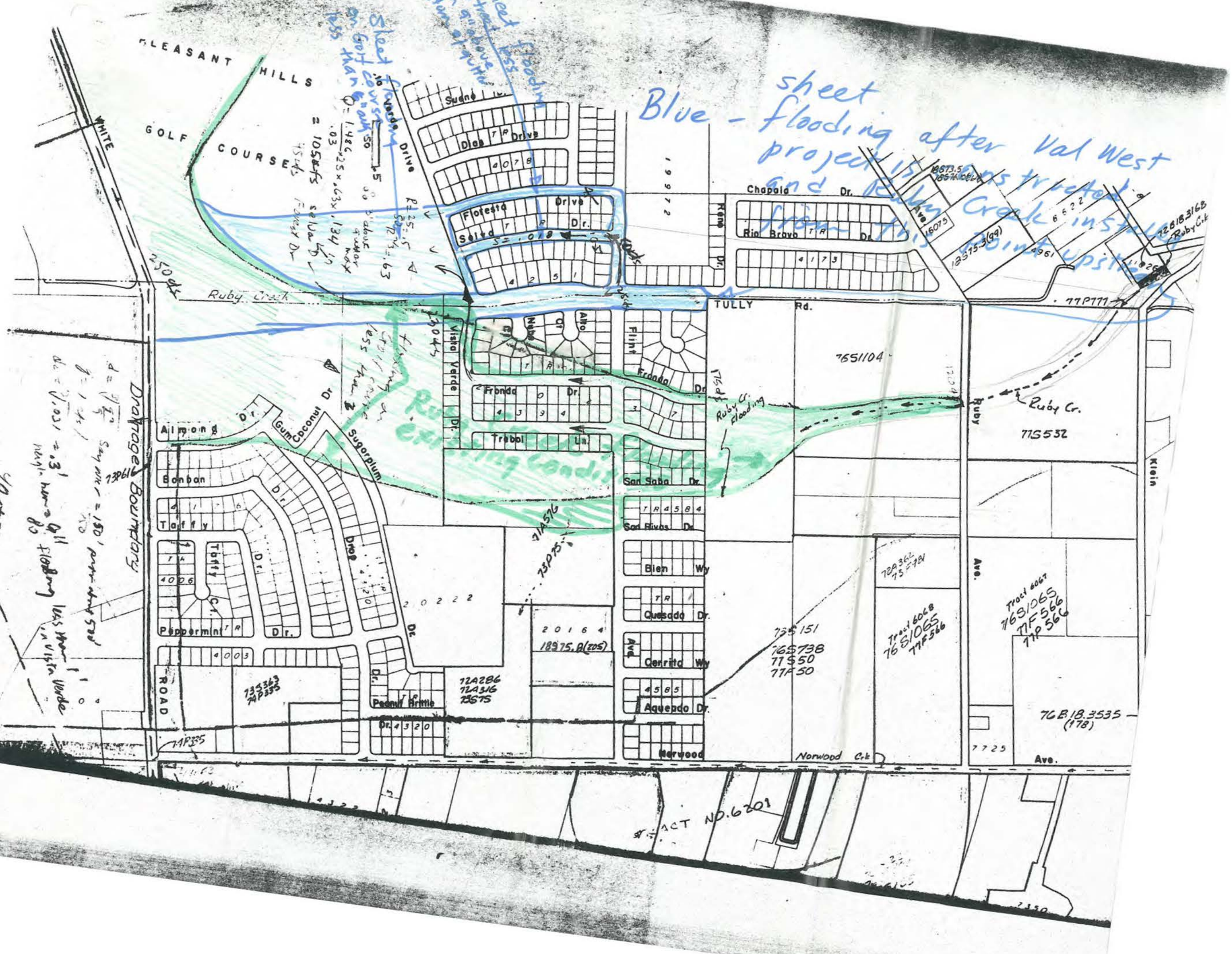
Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction Division

cc: HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, CA 95112
City of San Jose, Engineering Services
Attention Mr. E. R. Toschi
J. Richardson
W. Carlsen
A. Codiroli
E. Sullivan

WFC:fr


PLEASANT HILLS
GOLF COURSE
WHITE
Verde Drive
Suene
Dias
Floresta Drive
Salud
Chapala Dr.
Rio Bravo
Ruby Creek
TULLY Rd.
Vista Verde Dr.
Alto
Fronda Dr.
Trebol Ln.
San Saba Dr.
San Elvas Dr.
Almond Dr.
Gum
Coconut Dr
Sugarplum
Bonbon
Taffy
Peppermint
Drop
Dr.
Bolinhatay
Daylogs Boat Road
Ruby Cr.
Ruby Cr. Flooding
Klein
Ave.
Bien Wy
Quesado Dr.
Cerrito Wy
Aguado Dr.
Norwood
Norwood Ck
Peanut Brittle
Tract 6068
Tract 6067
76B18.3535
(178)
TRACT NO. 6203

BLUE
FLOODING CONDITIONS ARISE
UNDERWEST CONSTRUCTS RUBY
CREEK FROM JUST WEST OF
RENO DRIVE UP TO KLEIN RD.
GREEN
RUBY CREEK FLOODING
EXISTING CONDITIONS
Sheet flooding in streets - less than 9" above bottom of gutter
Sheet flooding on Golf course less than 6" avg
Flooding on Golf course less than 2" Sugarplum
Drainage Boundary
Klein Rd.
Ruby Ave.
Chapala Dr.
Reno Dr.
Flint
Frenda
San Saba Dr.
San Elvira Dr.
Blion Way
Quesada Dr.
Cerrita Way
Aquedo Dr.
Norwood
Norwood Ct.
Alto Ct.
Nebo Ct.
Tribbl Ln.
Vista Verde Dr.
Verde Drive
Sugarplum
Drop
Coconut Dr.
Gumbo
Almond
Bonbon
Toffy Ct.
Peppermint
ROAD
Ruby Creek
GOLF COURSE
PLEASANT HILLS
WHITE
Floresta
Selva Dr.
Forest Dr.
Peanut Brittle
Dr.
Drive
Student Ln.
Rio Bravo Dr.
Rio Bravo Tr.
Dios Tr. Drive
Dios Dr.
Fully Proposed Start Ruby Project by Val-West 7651104
Ruby Creek
Ruby Cr.
Say max = 150' prob about 500'
d = ∛(Q²/g)
g = 1 cfs/
d = ∛.031 = .3'
neglig. here so all go
flooding less than 1' in Vista Verde
40 of 77

Carlsen

April 14, 1976

Ms. Andrea B. Harris, Appraiser
Office of County Assessor
County of Santa Clara
70 West Hedding Street
San Jose, California 95110

Dear Ms. Harris:

In response to your April 6, 1976 letter relative to the Ruby Creek area located in East San Jose, I will answer your questions and comments in the order they are presented in your letter.

1. Portions of the area drained by Ruby Creek are subject to flooding on a frequent basis and until certain flood control measures are completed, it would be the recommendation of this District that urban development not be allowed. The awareness of this flooding potential has been taken into consideration by the City of San Jose in their Evergreen Development Policy and they have not approved subdivisions in this area or areas of similar problems.

2. The flood control measures required for Ruby Creek to protect adjacent lands are not scheduled to be undertaken by our District. In our current schedule we have all of the East Flood Control Zone funds up through 1986-87 committed for work on major streams such as Silver Creek and Berryessa Creek. We definitely will not consider funding flood control measures for Ruby Creek until the Silver Creek improvements are completed.

3. Our latest estimate prepared in April 1975 indicates that the Silver Creek Flood Control measures would be completed by 1986-87 unless a bond issue is passed which would then enable completion as early as 1981-82. At this time no decision has been made regarding holding a general obligation bond election.

I hope this will confirm your understanding of our recent discussion relative to the flood problems and their possible solutions in the Ruby Creek area.

Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

cc: M. Burns, G. Korbay, B. Carlsen

JLR:fr

City File
From HMH

MISCELLANEOUS ITEMS PERTAINING TO RUBY CREEK PROJECT

DATE	DESCRIPTION
June 17, 1977	Resolution of Planning Commission No. 77-57
July 29, 1977	Letter from Santa Clara Valley Water District, re: DEIR
August 2, 1977	Letter to Santa Clara Valley Water District, re: Sediment Control Faciity
August 15, 1977	Letter to Santa Clara Valley Water District approving sediment control facility
September 6, 1977	City of San Jose Memorandum re: Engineer's Report, Evergreen Development Policy, File No. C 76-12-180
September 30, 1977	City of San Jose Project Application Report
October 1977	Waiver of the Planning Director of the City of San Jose, File No. T 77-11-216
October 5, 1977	Letter from Santa Clara Water District, re: Rezoning Application of Valwest (C76-12-180)
October 5, 1977	Letter from City of San Jose Planning, recommending approval with certain conditions
November 8, 1977	City of San Jose Memorandum, re: Public Works Report
November 10, 1977	Santa Clara Valley Water District, re: Up-to-date co[illegible] estimate.
December 9, 1977	Letter from Santa Clara Water District, re: Tentative map for Valwest
December 20, 1977	City Council, re: Zonings
January 3, 1978	Addendum to City Council Agenda, re: Ordinances for Final Adoption
March 15, 1978	Letter from Santa Clara Water District, re: Aquirement of property
April 17, 1978	Letter from Santa Clara Water District, re: Proposed sediment control
July 24, 1978	Santa Clara Valley Water District, Flood Hazard Report
June 19, 1979	Letter from HMH, Inc., re: Ruby Creek Improvements

AUG 16 REC'D

C 76-12-180 (will) 206-76

5/17/78

✓ copy to Mike Valley Al Ruth

RESOLUTION NO. 77-57

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JOSE APPROVING A FINAL ENVIRONMENTAL IMPACT REPORT AS COMPLETE FOR A PROJECT DESCRIBED IN APPLICATION NO. C 76-12-180 AND FINDING THAT SAID PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

WHEREAS, pursuant to Article XX of the San Jose Municipal Code, HMH, Inc. hereinafter referred to as "Applicant", on June 17, 1977 filed Application No. C 76-12-180 for a final Environmental Impact Report on his proposed project, in the manner set forth in said application, of that certain real property, hereinafter referred to as "subject property", described in Exhibit "A" attached hereto and made a part hereof by reference as though fully set forth herein; and

WHEREAS, the Director of Planning, pursuant to and in accordance with said Article has prepared and filed with this Commission a draft Environmental Impact Report, File No. C 76-12-180 relating to said subject property; and

WHEREAS, pursuant to and in accordance with said Article, the Director of Planning did send a copy of said draft Report to each public agency having jurisdiction by law of said proposed project, advising such agencies to review and submit written comments, if any, to this Commission in the time and manner specified in said Article; and

WHEREAS, pursuant to and in accordance with said Article, this Commission conducted a hearing on said draft Report, notice of which was duly given; and

WHEREAS, at said hearing this Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said draft Report: NOW, THEREFORE:

SECTION 1: This Commission hereby finds, determines and declares a final Environmental Impact Report for said project to be complete and in conformance with the provisions of the California Environmental Quality Act and said Ordinance, and that said project described in File No. C 76-12-180 and in said final Environmental Impact Report will have a significant effect on the environment.

SECTION 2: The Secretary of the Commission shall cause a notice of approval of said Report and the determination of the Commission that said project will have a significant effect on the environment to be transmitted to the City Council, Agency, Board, Commission or Official who must approve said project.

ADOPTED this 10th day of August, 1977, by the following vote:

AYES: Commissioners - Blessing, Honda, McEnery, Ulrich

NOES: Commissioners - McNally

ABSENT: Commissioners - Beall, Bell

Thomas McEnery
Chairman

ATTEST:

J. L. Hamilton
Secretary

CITY OF SAN JOSE—MEMORANDUM

TO: PLANNING DEPARTMENT
ATTN: Noel Amelee

FROM: E. R. Toschi

SUBJECT: ENGINEER'S REPORT
EVERGREEN DEVELOPMENT POLICY, LANDS OF WHITTAKER: FILE NO. C 76-12-180

DATE: September 6, 1977

APPROVED

DATE

On September 1, 1977 the Public Works Department received from the developer's engineer, a report addressing the Evergreen Policy. This report found that this project met the criteria for development and is outlined in 3A through 3D. It was able to meet these items through the proposed construction of flood control facilities both off-site and adjacent to the proposed development. This development, if constructed, will provide a higher level of flood protection than now exists. This increase results from the construction of facilities to control the head waters of Ruby Creek.

It is Public Works findings that this development meets the intent of the Evergreen Development Policy. For this reason it is recommended that this proposal be allowed to develop.

E. R. TOSCHI
Princ. Civil Engineer
Engineering Services Division

GEM:gm

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA 95112
(408) 294-3212

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

SEP 1977
RECEIVED
ENGINEERING S.C.

September 1, 1977
Job No. 206-76

Mr. George McKissick
Engineering Services
City of San Jose
North First & Mission Sts.
San Jose, California 95110

Re: Lands of Whittaker
File No. C 76-12-180

Dear Mr. McKissick,

Mr. Noel Amilee of the Planning Department requested that we provide you with additional information regarding the proposed development of this property as it relates to the Evergreen Development Policy.

As a result of our meeting on Tuesday, August 30, we offer the following comments to assist you in preparation of your report to the Planning Department.

The property is within Phase III and presently subject to overland sheet flows from Ruby Creek. The Evergreen Development Policy requires that a contemplated development proposal must adhere to both flood protection and transportation policies as follows:

FLOOD PROTECTION POLICIES

a. Development would be allowed provided it would not be subject to flooding from the 100-year flood. (No water past the back of walk.)

This development will provide for the construction of Ruby Creek to 100 year flood capacity adjacent to the project and upstream to a sediment control facility. The sediment control facility, together with the construction of Ruby Avenue and Tully Road, will contain upstream flows and divert overland flows to Ruby Creek.

b. Development would be allowed provided it would not divert flood or overland flows onto or cause flooding on other properties.

This property is at the upstream reach of Ruby Creek. Overland flows accepted onto the property would be diverted into existing or proposed

flood control facilities. An interim 'bubble box' facility will provide some retention of drainage flows prior to discharge into the existing surface drainage ditch within the Tully Road right of way.

It is anticipated that development of subject property will occur simultaneously or immediately following the interim grading of Lake Cunningham Park in the spring of 1978. Grading of Lake Cunningham Park will include excavation of the channel to accomodate 100-year flood flows on Ruby Creek below White Road.

c. Development would be allowed in a water shed provided the tributary stream is constructed from Silver/Thompson Creek to a point which satisfactorily controls the headwaters for development within the watershed. Developers within the watershed will be responsible for all funding of tributary streams.

This condition is inappropriate to subject property since practically the entire Ruby Creek drainage basin within the urban service area has already been developed. As noted above, the project will provide for construction of Ruby Creek adjacent to the project and upstream to a sediment control facility. Additionally, some retention will be provided prior to discharge through use of a bubble box in Tully Road. The facilities provided by the project will tend to reduce and control downstream siltation and flows and are a major contribution towards the ultimate Ruby Creek facility.

d. Development would be allowed in a watershed provided the reach of Silver/Thompson Creek from the point of connection of the watersheds tributary stream to Cunningham is constructed to the 100-year flood standard.

The ultimate confluence of Ruby Creek with Silver Creek is proposed to occur adjacent to Cunningham Avenue and on the northerly side of proposed Lake Cunningham, therefore, this condition would not apply to the proposed development.

TRANSPORTATION POLICIES

1. Development shall be allowed in Evergreen in an incremental, controlled process so that adequate transportation facilities exist to maintain level of service 'D' throughout the study area.

A traffic study for the proposed development has been prepared by Louis H. Larson. His study indicates that level of service D or

September 1, 1977
Mr. George McKissick
Job No. 206-76

better would be maintained following completion of the proposed development.

2. Residential development will be limited to the Phase I and Phase II areas in the original Evergreen Development Policy plus the Villages and traffic analysis zones 252, 320, 321, 324 and 325 in Phase III if flood control improvements allow.

This property is within Phase III and traffic analysis zone 251. The proposed development will provide for improvement of Tully Road and Ruby Avenue adjacent to the site. Both streets are designated as major thoroughfares.

Substantial flood control improvements will also be provided by the proposed development. These improvements should too be termed critical in that upstream design flows will be contained above and through the project limits. Priority designation for development within TAZ 251 was not previously supported because of the undetermined status of Lake Cunningham. Litigation settlement of the property acquisition for Lake Cunningham is anticipated before the end of this year. This would allow interim grading to commence during the spring of 1978.

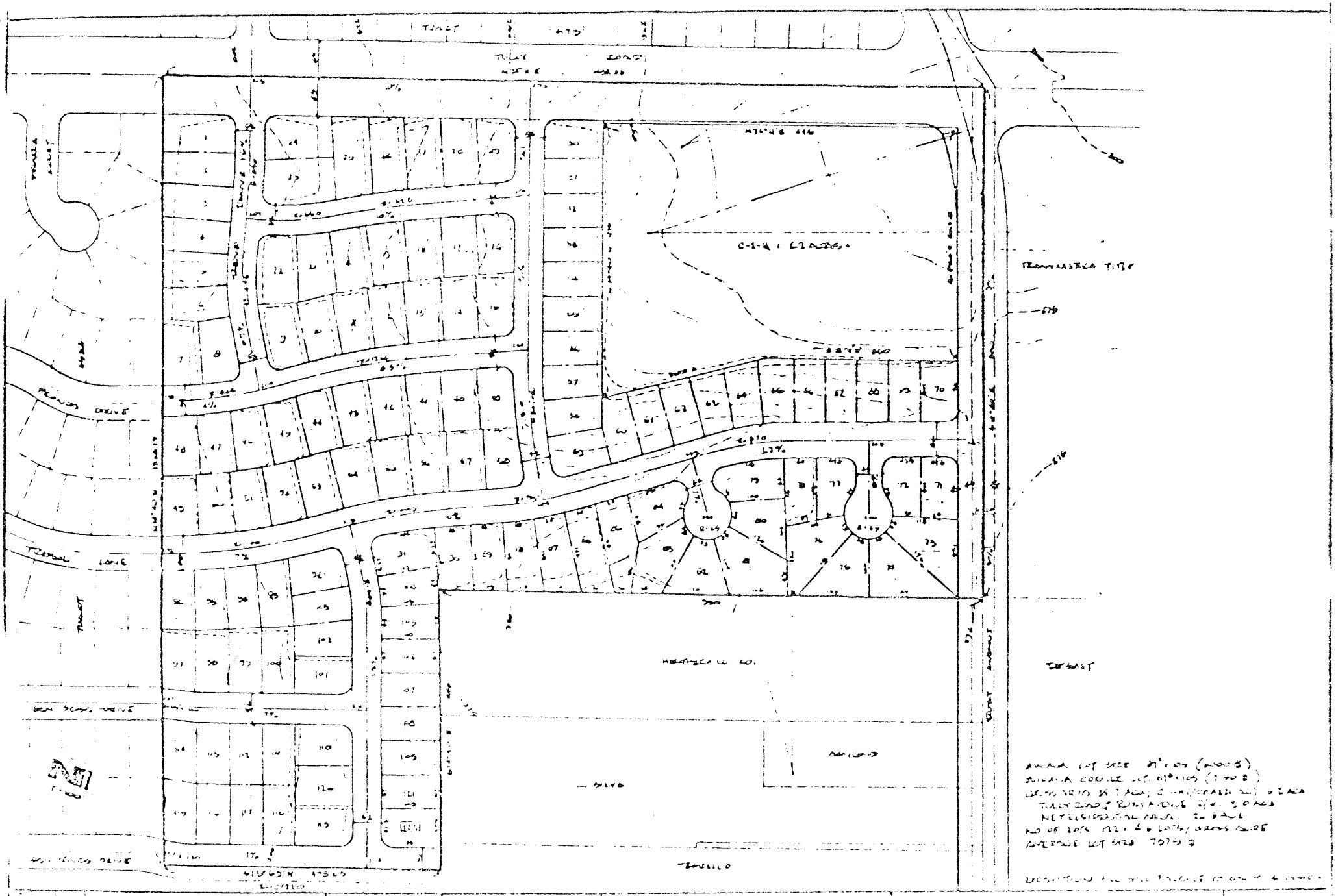
Since the proposed development is planned to occur simultaneously with or immediately following this grading, support should be given to encourage this development within TAZ 251 based upon similar reasoning used for encouraging development within TAZ's 252 and 320.

We trust the above will allow you to submit a positive response to the Planning Department.

Very truly yours,
HMH, Incorporated

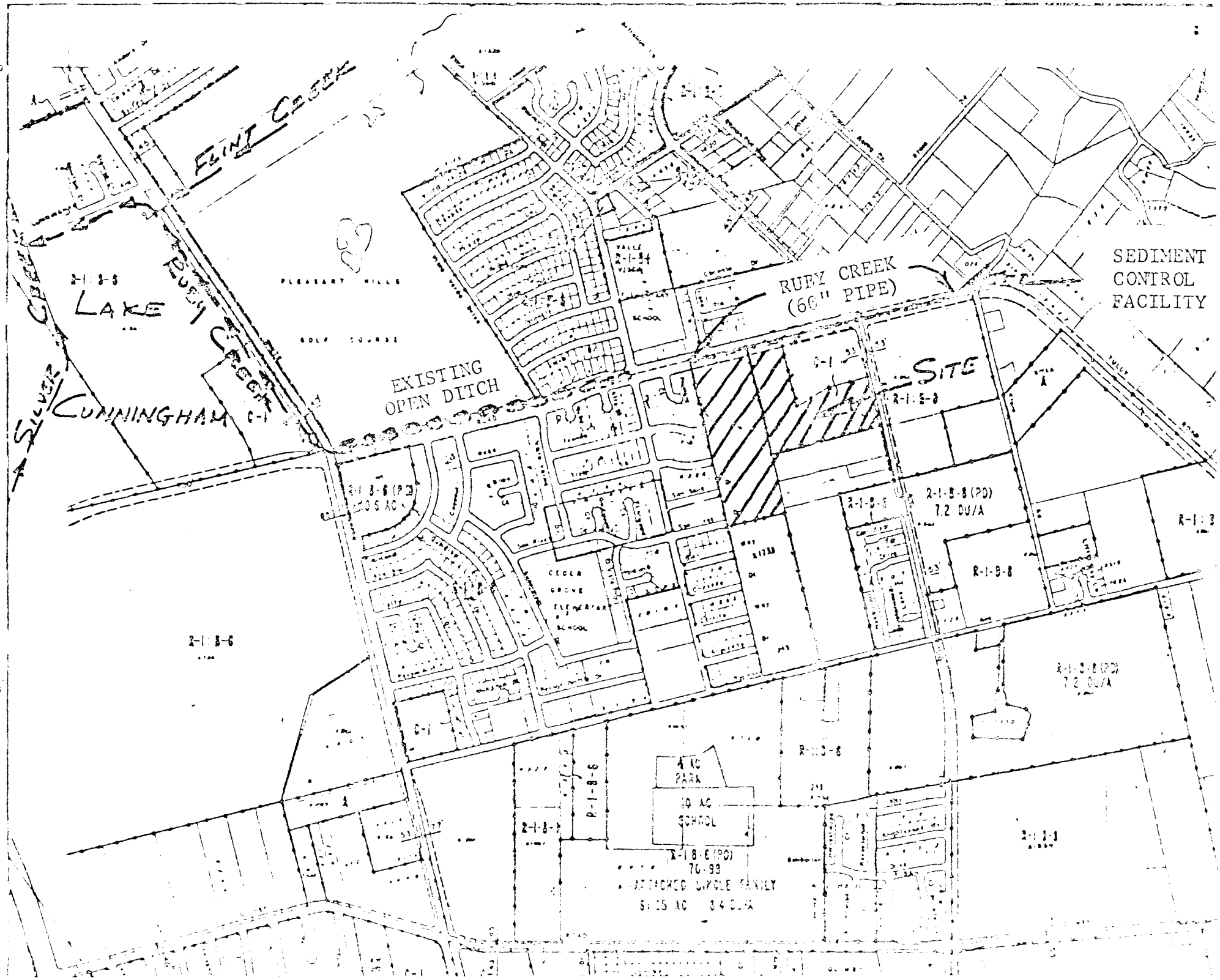
James T. Harper
Vice President

JTH/cm
CC: Mike Valley



J.H. INCORPORATED

Consulting Civil Engineers


FLINT CREEK
LAKE
CUNNINGHAM
SILVER CREEK
RUBY CREEK
PLEASANT HILLS
GOLF COURSE
EXISTING
OPEN DITCH
RUBY CREEK
(60" PIPE)
SITE
SEDIMENT
CONTROL
FACILITY
2-1-B-8
2-1-B-6
C-1
R-1-B-8
2-1-B-8 (PD)
7.2 DU/A
R-1-B-6
4 AC
PARK
10 AC
SCHOOL
R-1-B-6 (PD)
7.0-9.9
ATTACHED SINGLE FAMILY

SEP 30 REC'D

Conditional Appr. by P.C. 6-1 Beall 10/5/77

206-76

Project Application Report

Planning Department

801 North First Street
Annex Room 400
San Jose, California 95110
(408) 277-4576

AGENDA NO. 17

File No. C 76-12-180 No

Planning Area: Evergreen

AP No. 652-21-1, 2

Census Tract: 5033.02

PROJECT DESCRIPTION

Completed by: NA

Type of Application: PREZONING AND REZONING DENSITY: 4.6 units per net acre.

Location: South side of Tully Road and West side of Ruby Avenue

Acreage: Gross 29.45 Net 26.5

Existing Zoning: County, R-1:B-8 Existing Use: Vacant

Proposed Zoning: R-1:B-6 Proposed Use: Single-family detached

ENVIRONMENTAL STATUS

Completed by: HCA

☐ Negative Declaration granted on _____. Environmental Impact Report found complete on 8/10/77

☒ Finding made that project WILL have a significant effect on the environment (see p.3).

SURROUNDING LAND USES AND ZONING

Completed by: HCA

North: Single-family detached; R-1:B-6, County

East: Vacant; R-1:B-8

South: Vacant; R-1:B-6, County

West: Single-family detached; R-1:B-6

GENERAL PLAN

Completed by: HCA

Land Use/Transportation Diagram Designation: Medium Density Residential 8 DU/AC

Project Conformance: ☒ Yes ☐ No Urban Development Policy Conformance: ☒ Yes ☐ No

Other General Plan Issues:

Evergreen Development Policy.

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: HCA

Department of Public Works, City of San Jose

Sanitary available. Storm available per engineer's report.
Memo regarding Evergreen criteria dated September 6, 1977.

Other Agencies:

Santa Clara Valley Water District dated January 19, 1977.

School District(s)	Capacity Available	Capacity N/A	Agreement Reached
East Side Union High	☐	☒	☐
Evergreen Elem.	☐	☒	☐
	☐	☐	☐

GENERAL CORRESPONDANCE

Letter from HMH dated September 1, 1977.

FILE HISTORY

Completed by: HCA

Annexation Title: Evergreen 1B Date: April 22, 1960

(Portion) Evergreen 106 Pending

2.

File No. C 76-12-180

RECOMMENDATIONS AND ACTION

A. Planning Department Date Approved by: [illegible]

☐ Approval
☒ Approval with conditions
☐ Denial

Action
X Recommendations

B. Planning Commission Agenda No. 17 Date 10/5/77 Completed by:

Motion:

Action
X Recommendation

Vote on Motion
For:
Against:
Absent:

C. City Council Date Action:

Action:

ANALYSIS AND COMMENTS

The applicant proposes to rezone approximately 30 gross acres to R-1:B-6 to allow development of a site with varying slopes with lots ranging in size from 6,000 square feet to approximately 9,500 square feet. The average lot size is 7,375 square feet.

A proposed lotting pattern is attached. However, a tentative map has not yet been submitted and no commitment has been made regarding street pattern, grading plan, etc.

The land use, arterial and major collector streets are in accordance with the Land Use/Transportation Diagram of the General Plan. Local street and grading design issues can be adequately dealt with through the tentative map process.

However, the validity of the land use at this point in time is a function of the flooding and transportation criteria within the Evergreen Development Policy. Therefore, a discussion of the proposal with regard to each of the applicable criteria follows. The site is located within Phase III and is not within one of the five TAZ's identified in the original Evergreen Development Policy as preferable.

Flooding Criteria (Phase 3)

a. DEVELOPMENT WOULD BE ALLOWED PROVIDED IT WOULD NOT BE SUBJECT TO FLOODING FROM THE 100-YEAR FLOOD. (No water past the back of walk).

The proposed zoning will result in single-family homes with lots graded to an elevation to assure that floodwaters from a "100-year" storm would not encroach beyond the back of walk. The public streets/curbs would be hydraulically designed to function as shallow floodways in the event of overland flow. This development will also provide for the construction of Ruby Creek to 100-year storm capacity adjacent and upstream to a sediment control facility at the sole cost and expense of the developer. The sediment control facility, together with the construction of Ruby Avenue and Tully Road will intercept upstream and overland flows and divert them to the Ruby Creek storm drainage facilities.

b. DEVELOPMENT WOULD BE ALLOWED PROVIDED IT WOULD NOT DIVERT FLOOD OR OVERLAND FLOWS ONTO OR CAUSE FLOODING ON OTHER PROPERTIES.

Overland flows from floodwaters upstream of the site would be intercepted by the proposed sediment basin and hydraulically designed streets and diverted to the proposed Ruby Creek pipeline improvements. An interim "bubble box" facility will be provided at the discharge point into the existing drainage ditch within Tully Road to provide a velocity break before discharge. No additional improvements to the existing drainage ditch within Tully Road west of the site are proposed by the applicant. The existing drainage ditch will not accommodate floodwaters from a 100-year storm. However, development of the project will not cause an increase in floodwater volume introduced to the drainage ditch. Therefore, the development will not cause additional flooding on other properties and will effectively divert floodwaters away from certain existing tracts now subjected to overland flows. It is anticipated that

development of the property will occur simultaneously or immediately following the interim grading of Lake Cunningham.

c. DEVELOPMENT WOULD BE ALLOWED IN A WATERSHED PROVIDED THE TRIBUTARY STREAM IS CONSTRUCTED FROM SILVER-THOMPSON CREEK TO A POINT WHICH SATISFACTORILY CONTROLS THE HEADWATERS FOR DEVELOPMENT WITHIN THE WATERSHED. DEVELOPERS WITHIN THE WATERSHED WILL BE RESPONSIBLE FOR ALL FUNDING OF TRIBUTARY STREAMS.

80+% of the Urban Area within the Ruby Creek drainage basin is developed, including approximately 80 acres in a golf course. However, the trunk pipeline within Tully Road necessary to transmit storm waters to the Lake Cunningham area has not been constructed. In lieu of the pipeline, an existing ditch is provided in place of the median within the Tully Road right-of-way. However, the ditch does not provide 100-year base flood protection for properties along Tully Road.

Approximately 100 acres remain within the drainage basin, including the subject rezoning, to support construction of the pipeline from the Lake Cunningham area to and including a sediment basin to control the headwaters. Approximately 70 of the 100 acres are concentrated in the Tully and Ruby area.

The project as proposed by the applicant would provide for trunk pipeline improvements within Tully Road for slightly less than one-half of the distance from White Road to the sediment basin. The pipeline and sediment basin would be constructed to 100-year base flood design at the sole cost and expense of the developer.

However, the applicant's proposal does not provide for construction from the Lake Cunningham area to the sediment basin at the 100-year design, nor does it assure that developers within the watershed will provide for funding of the necessary improvements to achieve 100-year base flood protection.

Therefore, in face of no other alternative such as accomplished in the Norwood basin the staff recommends that complete stream improvements to the 100-year base flood design be provided at the sole cost and expense of the developer from Silver-Thompson Creek to and including the sediment basin to assure consistency with this criteria.

d. DEVELOPMENT WOULD BE ALLOWED IN A WATERSHED PROVIDED THE REACH OF SILVER-THOMPSON CREEK FROM THE POINT OF CONNECTION OF THE WATERSHED'S TRIBUTARY STREAM TO CUNNINGHAM IS CONSTRUCTED TO THE 100-YEAR FLOOD STANDARD.

This particular criteria was established to assure that the flood protection level within the Silver/Thompson drainage basins south of the Lake Cunningham area was not eroded by premature development approval within watersheds south of Ruby Creek (e.g. Norwood, Quimby, Fowler, etc.) which discharge into Silver or Thompson Creek south of Lake Cunningham.

Ruby and Flint Creeks will confluence in an overflow basin adjacent to Cunningham Avenue on the north side of Lake Cunningham. The overflow basin will provide for a release to Lake Cunningham in the event of a major storm, which will reduce the erosion of downstream flood protection.

Transportation Criteria

a. DEVELOPMENT SHALL BE ALLOWED IN EVERGREEN IN AN INCREMENTAL, CONTROLLED PROCESS SO THAT ADEQUATE TRANSPORTATION FACILITIES EXIST TO MAINTAIN LEVEL OF SERVICE "D" THROUGHOUT THE STUDY AREA.

A traffic study submitted and reviewed by the City indicates that level of service D will be maintained at all critical intersections. An important aspect of the maintenance of level of service D is the continued monitoring of the intersections of Norwood, Tully and Cunningham with White Road. Warrant monitoring of these intersections will be undertaken by the City to establish a basis for placement on the priority list for signal installation to maintain level of service D.

b. RESIDENTIAL DEVELOPMENT WILL BE LIMITED TO THE PHASE I AND PHASE II AREAS IN THE ORIGINAL EVERGREEN DEVELOPMENT POLICY PLUS THE VILLAGES AND TRAFFIC ANALYSIS ZONES 252, 320**, 321**, 324 AND 325*** IN PHASE II IF FLOOD CONTROL IMPROVEMENTS ALLOW (see Figure 1).

PREFERENCE WILL BE GIVEN TO THOSE AREAS WITH PENDING DEVELOPMENT.

SUPPORT SHOULD BE GIVEN TO ENCOURAGE DEVELOPMENT IN TAZ's 252 AND 320 AS THEY INCLUDE CRITICAL TRAFFIC AND FLOOD CONTROL IMPROVEMENTS ON SITE.

The proposed project is not situated within Phase I, Phase II or one of the five preferred TAZ's within Phase III. However, the basis for containment of development approvals within these identified areas was established in mid-1976 when the Evergreen Development Policy was formulated. Subsequent to that time, considerable approval activity within those identified areas has occurred, thereby reducing the available land supply for pursuit of approval, to the most easterly and southerly locations within the preferred areas. With a major portion of available land within the preferred areas converted to approved status, the progression of the conversion process extends to properties within Phase III which are contiguous to existing development that can satisfy the remaining flooding and transportation criteria. The proposed project is contiguous to existing development to the west and north.

c. RESIDENTIAL DEVELOPMENT IN THE PROPOSED DEVELOPMENT AREA WILL BE LIMITED TO THE SERVICE CAPACITY OF THE 6 EXISTING ACCESS INTERSECTIONS BASED ON GENERAL PLAN CONFIGURATIONS (5230 units).

EACH OF THE 5230 RESIDENTIAL UNITS WILL CONTRIBUTE $904.00.

The recent increase in construction tax rates by the City Council will provide funding for the necessary improvements in place of the originally established $904 contribution. The 122 units added as a result of this project does not exceed the 3,190 dwelling unit capacity of the peripheral intersections in their present configuration.

RECOMMENDATION

The Planning Staff recommends CONDITIONAL APPROVAL of this rezoning for the following reasons:

1. The proposal is consistent with the General Plan Land Use/Transportation Diagram.

2. Municipal services would be available as conditioned.

3. The proposal is consistent with the flooding and transportation criteria of the Evergreen Development Policy as conditioned.

4. The project will provide an increment in the supply of homes for a current demand,

PROVIDED THAT:

Complete stream improvements to the 100-year base flood design be provided at the ~~sole cost and expense of the developer from~~ ~~Silver Thompson Creek~~ From Lake Cunningham to and including the sediment basin.

6-1

ENVIRONMENTAL IMPACT REPORT SUMMARY AND STATEMENT OF FINDINGS

The E.I.R. identifies the following impacts:

1. Traffic - The addition of traffic in face of the limited capacity of the transportation structure to accommodate trip loads.

2. Drainage and Flooding - The reduction of downstream flood protection.

3. Schools - The increase in already existent overcrowding of classrooms.

4. Police - The increase in the demand for police service in view of limited budget potential.

5. Energy Conservation - The increase in consumption of energy in face of short term limited fossil fuel resources.

Mitigation Measures and Over-Riding Concerns

1. The traffic capacity absorption resulting from the project would be mitigated by the contribution of specific tax revenues through the construction and conveyance taxes which would result in the completion of critical street and signal improvements which will expand the transportation system service capacity sufficiently to offset the project related absorption.

2. The potential reduction in downstream flood protection would be mitigated by the complete provision of Ruby Creek improvements to the 100-year base flood design at the sole cost and expense of the developer.

   The Lake Cunningham grading improvements together with the overflow basin at the confluence of Ruby and Flint Creeks and other improvements by the developer will improve the downstream level of protection from floodwaters originating within the Ruby Creek tributary basin.

3. The developer will be required to enter into agreements with the appropriate school districts to provide a satisfactory temporary alternative to permanent school construction pursuant to the provisions of Section 9112.14 of the San Jose Municipal Code (Measure "B" Ordinance). Henceforth, the otherwise further aggravation of school overcrowding is eliminated and therefore mitigated.

4. The staff recommends that the drain on tax revenues from other sources resultant from the cost of increased police service demand not being offset by increased revenues generated by the project is over-riden by the need to provide a continued supply of housing at a price within the current range of ability to pay relative to expectations.

5. Energy consumption is mitigated by current construction methods such as improved insulation, extended eave overhangs, energy reflecting glass, fluorescent lighting, skylights, together with solar orientation of the structures on each site. In addition, moral suasion possibilities such as the alteration of thermostat/ac settings and the pursuit of solar energy sources to supplement energy supply for individual purposes such as pool heating have a mitigating effect on the incremental increase in fossil fuel energy consumption. The staff recommends that direct energy consumption increases that are not mitigated by construction/design methods together with moral suasive techniques are over-ridden by the need to supply shelter in face of continued demand.

PLANNING COMMISSIONERS

Hearing Date January 19, 1977
Deferred March 30, 1977
Deferred June 22, 1977
Deferred September 7, 1977
Deferred September 21, 1977
Deferred October 5, 1977

cc: HMH, Inc.
1415 Koll Circle, Suite 107
San Jose, California 95112

FILE NO. T 77-11-216

SW of Tully Rd. & Ruby Ave.

WAIVER OF THE PLANNING DIRECTOR OF THE CITY OF SAN JOSE IN WHOLE OR IN PART, OF THE APPLICATION OF SECTION(S) 9210, 9278, 9279, and 9279a OF THE SAN JOSE MUNICIPAL CODE AS IT APPLIES (THEY APPLY) TO THE LAND EMBRACED BY THE PROPOSED TENTATIVE MAP ENTITLED, " TENTATIVE MAP FOR VALWEST TRACT #6377, SAN JOSE ", DRAWN BY H.M.H. INCORPORATED, DATED OCTOBER 1977, AND APPROVAL OF SAID TENTATIVE MAP, SUBJECT TO CERTAIN CONDITIONS, AND THE MAKING OF CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH.

SECTION 1. Francis M. & Mary Whittaker; Transamerica Title Insurance Co. have filed with the Planning Director of the City of San Jose, a tentative map entitled, " Tentative Map for Valwest, Tract #6377, San Jose drawn by H.M.H. Incorporated, Consulting Civil Engineers, dated October 1977, and have requested the Planning Director of the City of San Jose to waive the application of Section(s) 9210, 9278, 9279, and 9279a of the San Jose Municipal Code as it applies (they apply) to the land embraced by the said map and to approve said map. In connection with said request, the Planning Director of the City of San Jose hereby makes the following findings and waives the application of Section(s) 9210, 9278, 9279, and 9279a to the land embraced by the said map, as follows:

1. The Planning Director of the City of San Jose hereby finds that the proposed subdivision embraced by said map does not include hillside areas or areas subject to inundation; that the Building Department and the Director of Public Works have filed written statements with the Planning Director indicating that, due to the knowledge the Building Department and the Director of Public Works have as to the soil qualities of the soil of the proposed subdivision, the combined geological and preliminary soil report required to be submitted by the provisions of Section 9210 of the San Jose Municipal Code in connection with the proposed subdivision is unnecessary; that application of Section 9210 of the Municipal Code of the City of San Jose to the proposed subdivision is unreasonable because of the topography and size of the proposed subdivision.

The Planning Director of the City of San Jose, therefore, based on such findings, waives the application of Section 9210 of the Municipal Code of the City of San Jose to the proposed subdivision in requiring a combined geological and preliminary soil report for the proposed subdivision.

2. The Planning Director of the City of San Jose hereby determines that double frontage for those lots numbered Lots 8 through 12, and 74, on the said map is advisable in view of the size, shape, use and physical condition of the property proposed to be subdivided and based on such determination, waives the requirement as to said lots numbered 8 through 12, and 74, on the said map, of Section 9278 of the San Jose Municipal Code that certain lots be designed with frontage on two (2) streets.

3. The Planning Director of the City of San Jose hereby finds that because of the design, front setback lines and improvements in said proposed subdivision, that those lots numbered 8, 9, 10,and 11 on the said map having a lesser depth than one hundred twenty feet (120') are satisfactory, and based on such finding waives the requirement of Section 9279 of the San Jose Municipal Code that said lots numbered 8, 9, 10, and 11 shall have a minimum depth of one hundred twenty feet (120').

4. The Planning Director of the City of San Jose hereby determines that in view of the size, shape, use and physical condition of the property proposed to be subdivided, a greater depth for that lot numbered Lot 87 on the said map, than two and one-half (2½) times its average width is advisable, and based on such determination hereby waives the requirement of Section 9279a of the San Jose Municipal Code that said lot numbered Lot 87 not have a greater depth than two and one-half (2½) times its average width.

SECTION 2. The Planning Director of the City of San Jose (hereinafter called "Director") hereby approves the tentative subdivision map entitled " Tentative Map for Valwest, Tract #6377, San Jose ", dated October 1977, drawn by H.M.H. Incorporated Civil Engineers, subject to each and every of the following conditions:

1. Subdivider shall file with the Director, before the City Council approves the plans for the improvements which the Director has required for the proposed subdivision and before the subdivider constructs any improvements for the proposed subdivision, a combined geological report and preliminary soil report meeting in all respects the requirements of Section 9210 of the San Jose Municipal Code. If the Director finds that there are any geological hazards or soil conditions which are dangerous or potentially dangerous to life, property or improvements due to the movement, failure or shifting of earth, which may affect the proposed subdivision and any surrounding territory on which improvements are required by the Director to be constructed for the subdivision, the approval of the tentative map covered by such report shall be deemed to have lapsed and the subdivider shall be required to file a new tentative map.

2. Subdivider shall, before approval and recording of the final map for the subdivision, improve or agree to improve, in accordance with all applicable provisions of the San Jose Municipal Code, plans approved by the City Council and the Standard Specifications of the City of San Jose applicable at the time of approval of the tentative map, all land within the subdivision shown on the tentative map to be used for public

of private streets, alleys, pedestrian ways and easements and all land to be used for public or private streets, alleys, pedestrian ways and easements shown bordered in green on the tentative map outside the boundaries of, but appurtenant to the subdivision, as follows:

On, within, or under areas shown as proposed public or private streets, subdivider shall install in the specific locations shown on the plans approved by the City Council for the subdivision, street grading and paving, Portland cement concrete curbs and gutters, Portland cement concrete sidewalks, Portland cement concrete driveway approaches, (ornamental fences and landscaping) (to be deleted when approved double frontage lots are not involved) pipes, catch basins, sanitary sewer facilities and drainage facilities, street lights and any and all necessary appurtenances to any and all of the foregoing improvements as required by said plans.

On, within, or under areas shown as proposed easements for drainage facilities and appurtenances, subdivider shall provide and install all necessary drainage facilities and appurtenances in the specific locations shown on the plans approved by the City Council for the subdivision as required by said plans.

On, within, or under areas shown as proposed easements for sanitary sewer facilities and appurtenances, subdivider shall provide and install all necessary sanitary sewer facilities and appurtenances in the specific locations shown on the plans approved by the City Council for the subdivision as required by said plans.

On areas shown as proposed streets or on easements for fire hydrants subdivider shall furnish (unless subdivider elects to pay City to furnish such hydrants, pursuant to Section 9247 of the San Jose Municipal Code) and install fire hydrants in the specific locations shown on the plans approved by the City Council for the subdivision as required by said plans.

On areas shown as proposed streets or on easements for street name signs subdivider shall furnish and install street name signs as required by plans approved by the City Council for the subdivision, unless subdivider elects to pay City to furnish and install such signs, pursuant to Section 9248 of the San Jose Municipal Code.

On areas to be used for streets or on easements for street trees, subdivider shall furnish and install street trees in the specific locations shown on the plans approved by the City Council for the subdivision as required by said plans.

3. In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into an improvement contract, in accordance with Section 9252 of the San Jose Municipal Code, and provide the bonds and insurance mentioned therein.

4. All necessary utility facilities, with connections to each lot within the subdivision, adequate to supply telephone, electricity, gas and water service to the subdivision shall be constructed and installed in accordance with Section 9250 of the San Jose Municipal Code.

5. Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, alleys, street lighting, sanitary sewers, drainage, flood control channels, water systems, and slope easements in and upon all areas within the subdivision shown on the tentative map for the subdivision to be devoted to such purposes.

6. Subdivider shall convey or cause to be conveyed by separate instruments to the City of San Jose, easements in and upon all areas shown bordered in green on the tentative map outside the boundaries of, but appurtenant to the subdivision; each particular easement to be conveyed for the particular purpose or purposes shown on the tentative map for which such particular easement is to be devoted in connection with the subdivision. Such instruments shall be executed and recorded before the final map for the subdivision is recorded. Such easements so conveyed shall be shown on the final map, together with references to the book and page in the official records of Santa Clara County, where each instrument conveying such easements is recorded.

Subdivider shall dedicate on the final (parcel) map for public use, an easement in and upon all areas shown bordered in red on the tentative map for the planting, maintaining and removal of trees, and shall include in the owner's certificate on the final (parcel) map a provision that no trees may be planted thereon or removed therefrom without the City's written consent and then only in accordance with such terms and conditions imposed thereon by the City.

The construction and installation of a sound attenuation wall in the location shown in yellow on the proposed tentative map, which said improvement the Planning Director of the City of San Jose finds is necessary for the proposed subdivision to be consistent with the Noise Element of the General Plan of the City of San Jose, is required.

7. Developer shall construct Ruby Creek flood control improvements from the headwater to a point west of White Road, said point to be determined by the Director of Public Works.

8. Grading shall be in conformance with the Preliminary Grading Plan attached to the Approved Tentative Map as a part thereof and revised by Planning Staff on April 12, 1978.

9. Any Grading Permit for any portion of the subject property shall be reviewed and informally approved by the Director of Planning prior to issuance by the Director of Public Works.

10. Ruby Avenue shall be transitioned from a 45' half-street to a 53' half-street at Tully Road, as shown on face of Approved Tentative Map.

11. Storm and sanitary sewage fees, sanitation treatment plant fees and San Jose Municipal Water area fees are due and payable by developer prior to recordation of a final m

ENVIRONMENTAL REVIEW

Regarding Lots 1 through 122 (Lot 123 is Exempt from Environmental Review at this time as no change in use or Status is implied by this Tentative Map)

WHEREAS, the property embraced by the subject tentative parcel map (T 77-11-216) was the subject of an Environmental Impact Report (in conjunction with C 76-12-180) prepared by the City of San Jose as the Lead Agency in compliance with the requirements of the California Environmental Quality Act of 1970, as amended, and the said EIR was found complete by the City of San Jose Planning Commission on August 10, 1977, and

WHEREAS, the Planning Director of the City of San Jose is the decision-making body regarding approval of tentative maps; and

WHEREAS, the Planning Director hereby certifies that as a decision-making body, he has reviewed and considered the information contained in such EIR prior to approving such project;

NOW THEREFORE, THE PLANNING DIRECTOR does hereby make the following findings with respect to the significant effects on the environment of such project as identified in the hereinbefore mentioned EIR.

A. Effect: The addition of traffic in face of the limited capacity of the transportation structure to accommodate trip loads.

Mitigation or Avoidance or Explanation of Infeasibility of Mitigation or Avoidance: The traffic capacity absorption resulting from the project would be mitigated by the contribution of specific tax revenues through the construction and conveyance taxes which would result in the completion of critical street and signal improvements which will expand the transportation system service capacity sufficiently to offset the projected related absorption.

B. Effect: The reduction of downstream flood protection.

Mitigation or Avoidance or Explanation of Infeasibility of Mitigation or Avoidance: The potential reduction in downstream flood protection would be mitigated by the complete provision of Ruby Creek improvements to the 100-year base flood design at the sole cost and expense of the developer. The Lake Cunningham grading improvements together with the overflow basin at the confluence of Ruby and Flint Creeks and other improvements by the developer will improve the downstream level of protection from floodwaters originating within the Ruby Creek tributary basin.

C. Effect: The increase in already existent overcrowding of classrooms.

Mitigation or Avoidance or Explanation of Infeasibility of Mitigation or Avoidance: The developer will be required to enter into agreements with the appropriate school districts to provide a satisfactory temporary alternative to permanent school construction pursuant to the provisions of Section 9112.14 of the San Jose Municipal Code (Measure "B" Ordinance). Henceforth, the otherwise further aggravation of school overcrowding is eliminated and therefore mitigated.

D. Effect: The increase in the demand for police service in view of limited budget potential.

Mitigation or Avoidance or Explanation of Infeasibility of Mitigation or Avoidance: The drain on tax revenues from other sources resultant from the cost of increased police service demand not being offset by increased revenues generated by the project is overridden by the need to provide a continued supply of housing at a price within the current range of ability to pay relative to expectations.

E. Effect: The increase in consumption of energy in face of short term limited fossil fuel resources.

Mitigation or Avoidance or Explanation of Infeasibility of Mitigation or Avoidance: Energy consumption is mitigated by current construction methods such as improved insulation, extended eave overhangs, energy reflecting glass, fluorescent lighting, skylights, together with solar orientation of the structures on each site. In addition, moral suasion possibilities such as the alteration of thermostat/ac settings and the pursuit of solar energy sources to supplement energy supply for individual purposes, such as pool heating, have a mitigating effect on the incremental increase in fossil fuel energy consumption. The direct energy consumption increases that are not mitigated by construction/design methods together with moral suasive techniques are overridden by the need to supply shelter in face of continued demand.

SECTION 3. The Planning Director of the City of San Jose hereby finds that the proposed subdivision shown on the said tentative subdivision map, subject to the conditions imposed thereon herein, together with the provisions for its design and improvements is consistent with applicable general and specific plans of the City of San Jose.

The Planning Director of the City of San Jose hereby determines, pursuant to Sections 66474.6 and 66474.7 of the Government Code of the State of California, that the discharge of waste from the proposed subdivision shown on the said tentative map, subject to the conditions imposed thereon herein, into an existing community sewer system would not result in or add to violation of existing requirements prescribed by the San Francisco Bay Regional Water Quality Control Board, pursuant to Division 7 (commencing with Section 13000) of the Water Code.

The Planning Director of the City of San Jose has considered the said proposed subdivision shown on the said tentative map, subject to the conditions imposed thereon herein, to determine whether any of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California should be made as applied to said proposed subdivision, and the Planning Director of the City of San Jose hereby determines that none of the findings set forth in subsections (a) through (g) of Section 66474 of the Government Code of the State of California should be made as applied to said proposed subdivision and on such basis, does not make any of such findings as applied to said proposed subdivision.

FILE NO. T 77-11-216

APPROVED this 12th day of April, 1978.

JOHN W. HAMILTON
DIRECTOR OF PLANNING

By William L. Phillips
Deputy

William L. Phillips

206 76

Santa Clara Valley Water District

EJM

KHH

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

cc Valley Ruff
cm 10/11

October 5, 1977

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Department
City Hall Annex - Fourth Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to your letter of September 20, 1977, regarding the proposed rezoning application of Valwest (C76-12-180).

We have reviewed the material furnished with your letter and wish to advise how we believe this proposal relates to the Evergreen Development policy.

The proposed development is in Phase 3 of the Evergreen Development policy which has the following criteria:

a. Development would be allowed provided it would not be subject to flooding from the 100-year flood. (No water past the back of walk.)

b. Development would be allowed provided it would not divert flood or overland flows onto or cause flooding on other properties.

c. Development would be allowed in a watershed provided the tributary stream is constructed from Silver-Thompson Creek to a point which satisfactorily controls the headwaters for development within the watershed. Developers within the watershed will be responsible for all funding of tributary streams.

d. Development would be allowed in a watershed provided the reach of Silver-Thompson Creek from the point of connection of the watershed's tributary stream to Cunningham is constructed to the 100-year flood standard.

The proposed development meets item "a" as it would not be subject to flooding from the 100-year flood after completion of the proposed construction (by the developer), of the Reach of

AN AFFIRMATIVE ACTION EMPLOYER

Ruby Creek from about 500 feet east of Flint Avenue to and including the sedimentation control facility.

It meets item "b" as it would not cause any significant increase in flooding on other properties, in fact, the proposal does reduce flooding of developed property in the immediate proximity of the project.

It does not meet item "c" in that the development does not include construction of Ruby Creek from the Silver-Thompson (Lake Cunningham) confluence to a point about 500 feet east of Flint Avenue.

Regarding item "d", Ruby Creek will eventually connect to Lake Cunningham so construction of any part of Silver-Thompson does not appear applicable. However, the Districts plans to construct a first stage project in the Lake Cunningham area depend on results of the current Lake Cunningham park condemnation proceedings by the city. It is not known how long this will take or the final result. If this project does not go ahead then Ruby Creek would have to be connected to Silver-Thompson.

Although not a part of the Evergreen Development Policy, the Water District has a policy that if upstream development increases downstream flooding such increases should be mitigated. The downstream area we are concerned about relative to the proposed development is the area north of Cunningham Avenue. Our analysis shows that no increase in downstream flooding will occur. The sediment control facility to be constructed by the developer provides some on-site detention of flood waters and this coupled with the fact that the Ruby Creek will not be channelized to Lower Silver Creek leads us to this conclusion.

Sincerely yours,

ORIGINAL SIGNED BY

John L. Richardson
Head, Project Development Branch
Design and Construction

cc: HMH Incorportated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi
City of San Jose
Planning Department
Attention Mr. Noel Ameele

File: City of San Jose Sub'd.
Ruby Creek
Wly of Ruby Avenue
Sly of Tully Road

Re: Rezoning Map for Valwest
File C76-12-180
76A1104, 76S1104

October 5, 1977

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Zoning Administrator
City of San Jose
Planning Department
City Hall Annex - Fourth Floor
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John L. Richardson
Head, Project Development Branch
Design and Construction

cc: HMH Incorportated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi
City of San Jose
Planning Department
Attention Mr. Noel Ameele
J. Richardson
W. Carlsen
A. Codiroli
E. Sullivan

WFC:sfg

Rec'd 10/20

206-76

cc Walle
Ruffo

CITY OF SAN JOSE
CALIFORNIA

October 5, 1977

CITY PLANNING

To the Honorable City Council
of the City of San Jose

Ladies and Gentlemen of the Council:

On October 5, 1977, the Planning Commission considered a proposed prezoning and rezoning to R-1:B-6 Residence District for 29.45 gross acres on the south side of Tully Road and the west side of Ruby Avenue.

After a staff presentation which emphasized the need to require complete stream improvements to the 100-year base flood design at the sole cost and expense of the developer from Silver-Thompson Creek to and including the sediment basin, the applicant's representatives, Mr. Jim Harper and Mr. Al Ruffo, presented arguments that such a condition would be inequitable and would impose an undue hardship.

Some discussion ensued regarding alternative methods of providing the stream improvements such as the use of an assessment district, a benefit district, capital improvements, etc.

The Planning Commission then voted 6-1 (James Beall-no) to recommend APPROVAL with the CONDITION that:

Complete stream improvements to the 100-year base flood design are provided from Silver-Thompson Creek to and including the sediment basin with options as follows:

1. that the improvements be provided at the sole cost and expense of the developer.

2. that the improvements be provided by some other mechanism such as an assessment district or a benefit district with a pay-back scheme.

3. or that occupancy be time conditioned to the existence of complete improvements at some future date.

In voting on the motion, Commissioner Beall indicated that he preferred the staff recommendation to assure conformance with the Evergreen Development Policy. Commissioners Blessing and McEnery noted they believed it was inequitable to burden the developer with the entire amount.

Com. 12/20 to City Council

Respectfully submitted for
the City Planning Commission,

JOHN W. HAMILTON, SECRETARY

William L. Phillips

William L. Phillips, Deputy

JWH:WLP:NA:vd
File No: C 76-12-180
6-1-0

B 206-76

CITY OF SAN JOSE -- MEMORANDUM

TO John Hamilton, Director of Planning FROM E. R. Toschi

SUBJECT PUBLIC WORKS REPORT DATE November 8, 1977

APPROVED DATE

PLANNING NO. T 77-11-216 PUBLIC WORKS NO

LOCATION SW CORNER TULLY & RUBY

Public Works Dept. has reviewed the application for the subject project and has the following requirements and comments:

1. Storm, sanitary and STP fees due and payable under a subdivision.
2. Area fees due for San Jose Municipal Water.
3. Construct Ruby Creek channel from the debris basin to Silver Creek.
4. Resolve drainage problem in Southwest corner of "C-1-H" Area.
5. Dedication and improvement of all public streets.
6. Transition Ruby Avenue to 53' half street at Tully Road. We will provide detail.
7. Report is necessary to indicate conformance with the Evergreen Development Policy. Phase III
8. Provide profile for Ruby Avenue. (4 Big 5")
9. Proposed median opening on Tully Road at Reno Drive.
10. Need details of back-up along Lots 25-29 on Tully Road and Lot 73 on Ruby Avenue.
11. Refer to SCVWD.

Alma -

3/22/78 [illegible]

Pat Hamilton

Hold to Gorlinski Corridor Plan

If you have further questions regarding this report, please call JIM LEITNER in Engineering Services at 277-4681.

for E. R. TOSCHI
Princ. Civil Engineer
Engineering Services Division

cc: Kent Dewell, Transportation
Jim Boring, Hydraulics
Stan Haugen, Landscape
Bill LoConte, Muni Water
[illegible]bc

.OV 16 1977

206-76-3

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

November 10, 1977

Mr. Ken Hankins
HMH, Incorporated
1415 Koll Circle
San Jose, California 95112

Dear Ken:

This is in reply to your request for an up-to-date cost estimate on the proposed Ruby Creek flood protection works.

We have the up-to-date hydrology and have redesigned the project using the 2% flood as the design flow with the hydraulic grade line of the 1% flow to be contained below the ground surface. The only resulting change to our existing plans would be to change the 48-inch RCP in reach 6B to a 54-inch RCP and to change the 54-inch RCP in reach 6C to a 60-inch RCP. Using current prices, this would increase the total construction plus engineering cost by about $15,000. In addition, the construction and engineering costs in our 1973 preliminary report for Ruby Creek, copy attached, should be adjusted to account for inflation.

These costs are all based on a particular flood protection plan that may change during a review process described as follows. If a special benefit zone is used, then the following steps must be taken to finalize the proposed flood protection plan. The "draft" report prepared in 1973 must be modified to reflect the changes as previously described. An initial study must be completed to determine the environmental concerns and an Environmental Impact Report (EIR) may be necessary. A public hearing must then be held in or near the project area to receive input on the draft EIR and Engineer's Report. Our Board of Directors would then set a public hearing on the final EIR and Engineer's Report. All of this process may result in a different project.

Sincerely yours,

John L. Richardson
Head, Project Development Branch
Design and Construction

Attachment

cc: Mr. William L. Phillips
City of San Jose
Mr. Noel Ameele
City of San Jose
Mr. E. R. Toschi
City of San Jose
Mr. Don Uyeda, City of San Jose

AN AFFIRMATIVE ACTION EMPLOYER

DEC 13 1977

206-76

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

cc Valley
" Ruffel

bcc Engdal

December 9, 1977

Mr. William L. Phillips
Zoning Administrator
City of San Jose
Planning Departmnet
City Hall Annex-Fourth Floor
801 North First Street
San Jose, California 95110

Dear Mr. Phillips:

This is in reference to your letter of November 15, 1977, regarding the tentative map for Valwest at the southwest corner of Tully Road and Ruby Avenue.

A portion of the site is subject to flooding from the 1% flow on Ruby Creek. Ruby Creek improvements have not been scheduled. Any filling, diking, or grading to flood proof the site could cause an increase in flooding of other properties.

The site is located in Phase Three of the City of San Jose's Evergreen Development Policy and is therefore subject to the flood protection criteria contained in the policy.

Our letter of October 5, 1977, copy attached, covers our comments in detail and remains unchanged for this application.

Yours very truly,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

Attachment

cc: HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112
City of San Jose
Engineering Services
Attention Mr. E. R. Toschi

AN AFFIRMATIVE ACTION EMPLOYER

21. Zonings

b. PUBLIC HEARING on PREZONING and REZONING, South side of Tully Road and West side of Ruby Avenue, from County and R-1:B-6 Residence District to R-1:B-6 Residence District, to allow single-family detached residential on 29.45 acres. Environmental Impact Report found complete with significant effect on Aug. 10, 1977. School Availability - Pending. Planning Director recommended conditional approval. Planning Commission recommended conditional approval. (6-1-0) C 76-12-180 (Cont. from 11-8-77)

c. PUBLIC HEARING on Council-Initiated CONFORMING PREZONING, North side of McGier Lane, between No. First Street and Zanker Road, from IP-b Industrial Park District to I-Industrial District, to allow Industrial Park uses on 55.30 acres. Redevelopment Agency is Lead Agency for Rincon de los Esteros Redevelopment Project E.I.R., found complete with significant effect on June 10, 1974. Exempt from School Availability Requirements. CC 77-11-239

d. PUBLIC HEARING on CONDITIONAL USE PERMIT (TOPIC II), East side of Pomona Avenue, between San Jose Ave. and Barnard Ave., to allow an automobile wrecking yard in an M-4 Manufacturing District. Negative Declaration granted. Planning Director recommended conditional approval. Planning Commission - No recommendation; lack of majority vote. (3-2-2) CP 77-9-31

e. PUBLIC HEARING on CONDITIONAL USE PERMIT (TOPIC II), South side of Minnesota Avenue, between Newport Avenue and Iris Court, to allow a non-dwelling use of a dwelling unit (Pre-School) in an R-1 Residence District. Negative Declaration granted. Planning Director recommended conditional approval. Planning Commission recommended conditional approval. (5-0-2) CP 77-9-36

f. PUBLIC HEARING on P.D. PREZONING and REZONING, Southeast corner of Almaden Expressway and Chynoweth Avenue, from County and C-3 Commercial District to A(PD), to allow approximately 137 single-family attached dwelling units (townhouses) on 14.02 gross acres. Negative Declaration granted. School Availability - Pending. Planning Director recommended conditional approval. Planning Commission recommended conditional approval. (6-0-1) PDC 77-9-197

g. PUBLIC HEARING on PREZONING, North side of Blackford Avenue, 1000' easterly of Saratoga Avenue, from County to C(Professional), to allow professional offices on 1.96 acres. Negative Declaration granted. School Availability - Not Applicable. Planning Director recommended approval. Planning Commission recommended approval. (5-0-2) C 77-9-202

h. PUBLIC HEARING on P.D. PREZONING, 500' Northeasterly of Canoas Garden Avenue, 300' Westerly of Curtner Avenue, from County to A(PD), to allow recreational vehicle parking on 1.114 acres. Negative Declaration granted under File No. C 77-6-114. School Availability - Not Applicable. Planning Director recommended approval. Planning Commission recommended approval. (5-0-2) PDC 77-9-208

File 206-76-2

APR 19 1978

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

EJM

cc M. Valley
4/20 D. Teresi
G. Toscani

April 17, 1978

Mr. Jim Harper
HMH Incorporated
1415 Koll Circle
Suite 107
San Jose, California 95112

Dear Jim:

This is in reply to your letter of March 15, 1978 regarding the proposed sediment control facility for Ruby Creek.

The attached marked plan shows the proposed location of the access road adjacent to the basin. If a 2:1 slope for the road was stable, the property required would be as shown. However, we do not have any detailed geology study for this area. Therefore, a detailed geology study should be done to determine if a 2:1 cut is satisfactory. If not, the houses adjacent to the cut would need to be moved or a retaining wall installed as the access road cannot be moved any closer to the basin.

In reference to your question regarding condemnation of land for the sediment control facility the District could, if necessary, condemn the land required. It would be necessary for our District to enter into a contract with the developer for this purpose. Such contract would be subject to approval by our Board of Directors, and must specifically provide that the land and the facility will be for a public use.

Very truly yours,

John L. Richardson

John L. Richardson
Head, Project Development Branch
Design and Construction

Enclosure

Marked plan to
Dennis Eccles @ TERRATECH
3/21/79

AN AFFIRMATIVE ACTION EMPLOYER

JUL 24 1978

Santa Clara Valley Water District

206-76

FLOOD HAZARD REPORT

FC 59 (08-10-77)

5750 ALMADEN EXPRESSWAY • SAN JOSE, CALIFORNIA 95118 • (408) 265-2600

7/24/78 CC M. Enydal

July 21, 1978

State of California
Division of Real Estate
One Hallidie Plaza, Suite 200
San Francisco, California 94102

Gentlemen:

A request has been received from Valley Title Company to prepare a flood hazard report relative to Tract 6377 located within the City of San Jose in the Ruby Creek Watershed.

The following report is based on data available to the Santa Clara Valley Water District and is not intended to supplant any required report from the Federal Insurance Administration.

☐ The site would not be subject to flooding in the event of a 1% flood flow from a District Facility under either present or foreseeable future conditions. (This is a flow having a 1% chance of being equalled or exceeded in any year.)

☒ The site would be subject to flooding from Ruby Creek in the event of the 1% flood flow. ~~It is estimated that the channel has a present capacity to pass a flow which has a xxxxxx% chance of being equalled or exceeded in any year.~~ No assurance can be given as to date at which flood protection will be provided. Any information available to us regarding possible future protection is given below under "Additional Comments".

☐ A flood hazard to the site does not exist under present conditions. A 1% flood hazard to this site may develop as conditions change.

Additional Comments:

1. The approximate limits of flooding are shown on the enclosed copy of the tentative map.
2. The developer is planning to install the creek in pipe on another alignment. When this is done the area should be free from flooding.

For information concerning the hazard from and disposition of local or surface storm water within and adjacent to this site, please contact the City of San Jose, Department of Public Works.

Enclosure: Tentative Map (Marked)

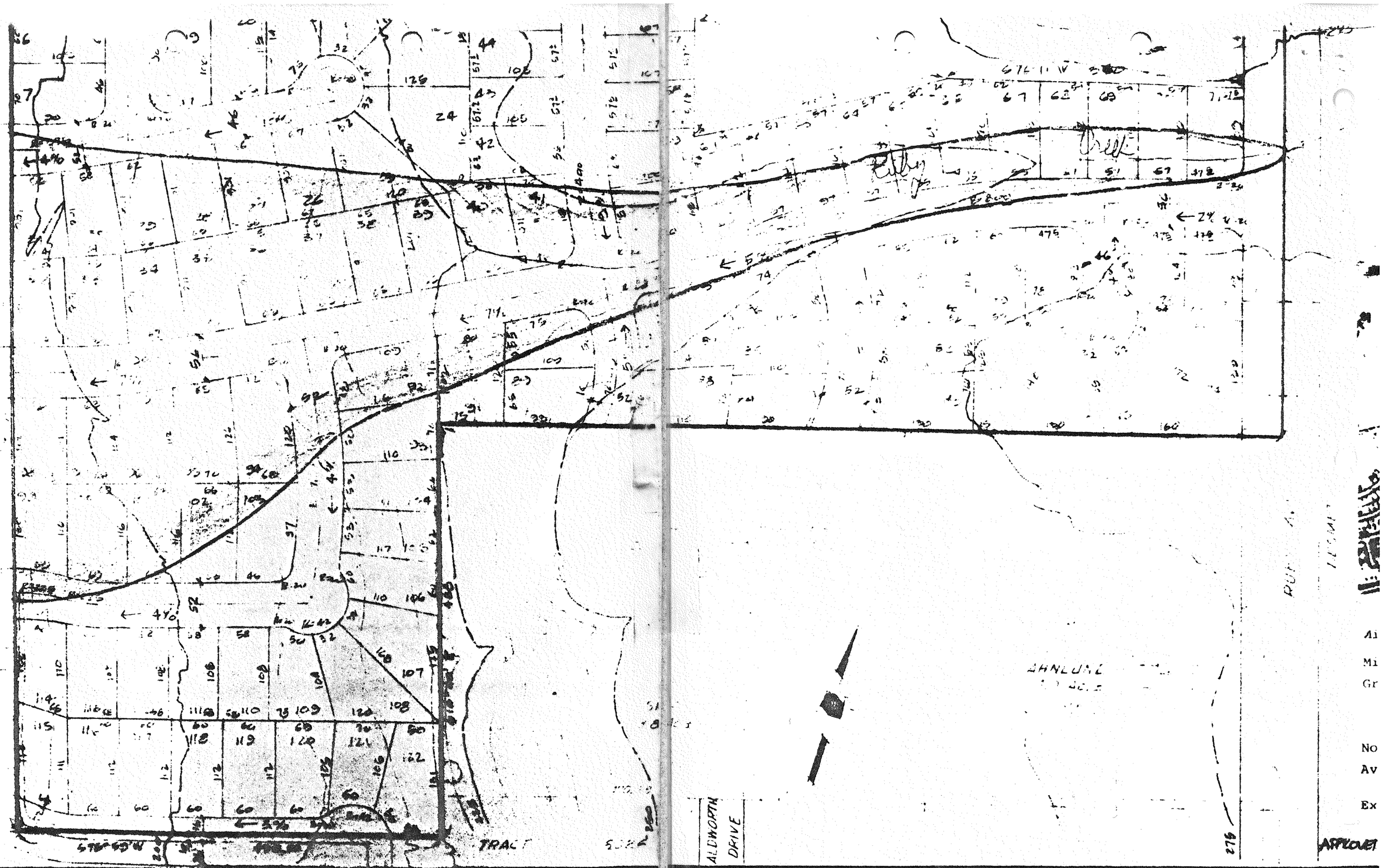
cc: Valley Title Company
Attn: Mr. Pete Borello
HMH, Inc.
City of San Jose
Engineering Services
Attn: Mr. Norm Murillo

Sincerely yours,

ORIGINAL SIGNED BY

W. F. Carlsen
Division Engineer
Design Coordination Division

COPY



Date: MARCH 27, 1978

Scale: 1" = 100'

H.M.H. INCORPORATED

TENTATIV

APPLICAT

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

June 19, 1979
Job No. 206-76-3

Mr. John Richardson
Head Project Development Branch
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Improvements

Dear Mr. Richardson,

Enclosed are two prints of the topographic map showing the future alignment of Tully Road and the proposed Ruby Creek retention basin. Highlighted in color on one print is the high water mark elevation 327 which provides for six acre feet of storage, as previously established by the District, together with the existing right of way and actual travel way of Klein Road that we discussed in our recent meeting.

We have reviewed Klein Road alignment with Mr. Pete Eiguren of the City of San Jose, pointing out that the actual travel way is outside the existing right of way and that the proposed high water surface elevation would encroach upon the existing Klein Road right of way. Mr. Eiguren suggested that we forward copies of the enclosed drawing to Mr. Gene Toschi at the City for review and comment regarding ultimate disposition of Klein Road.

By copy of this letter we will forward a print, requesting clarification and direction from Mr. Toschi. As you may recall in our meeting, we also discussed the District's initial request to provide a 22 foot wide access road on the general northwesterly side of the retention basin and pointed out that an excessive cut slope would be generated which would in fact daylight under the existing Glick residence. Consequently, the enclosed plans do not make provision for a

22 foot wide access road on the northwesterly side of the retention basin.

We respectfully request your further review and confirmation that the 22 foot wide access road can be eliminated. An access ramp for maintenance from Klein Road is shown.

Terratech has performed a slope stability evaluation of the site and confirmed that 2:1 cut slopes would be suitable for the project, a copy of their transmittal letter dated April 30, 1979 is enclosed for your file.

Should you have any questions or require additional information, please do not hesitate to call.

Very truly yours,
HMH, Incorporated

James T. Harper
Vice President

JTH/cm
Enclosure
cc: Mr. Gene Toschi, City of San Jose, w/encl.
Mr. Rob Miller, Kaufman & Broad, w/encl.

August 2, 1977
Job No. 206-76 — 3

Mr. John Richardson
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Re: Ruby Creek Sediment Control Facility

Dear Mr. Richardson,

We have prepared a proposed profile for the extension of Tully Road and a graph of Storage Capacity vs. Elevation for a sediment control facility on Ruby Creek that would be located on the Northerly side of future Tully Road in lieu of the location proposed on the Plans for Ruby Creek.

Will you please review our proposal and advise us of any comments at your earliest convenience.

Very truly yours,
HMH, Incorporated

James T. Harper
Vice President

JTH/cm
Encl.
CC: Mr. Mike Valley

IG 1 6 REC'D

206-76

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

KH 1/44
EJM

Copy to:
Mike Valley
Al Ruffo

August 15, 1977

Mr. James T. Harper
Vice President
HMH Incorporated
1415 Koll Circle, Suite 107
San Jose, California 95112

Dear Mr. Harper:

We have reviewed your proposed profile for the extension of Tully Road and graph of the storage capacity versus the elevation for a sediment control facility on Ruby Creek sent with your letter of August 2.

The proposed relocation is satisfactory to this District.

Any questions may be directed to Mr. Eugene H. Sullivan, Supervisor of our Permits Section, at extension 257.

Sincerely yours,

W. F. Carlsen

W. F. Carlsen
Division Engineer
Design Coordination Division

cc: Mr. E. R. Toschi
Engineering Services
City of San Jose

AN AFFIRMATIVE ACTION EMPLOYER

Santa Clara Valley Water District

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

July 29, 1977

RECEIVED
AUG 01 1977
CITY OF SAN JOSE
PLANNING DEPARTMENT

Mr. John W. Hamilton
Director of Planning
City Planning Department
801 North First Street
City Hall Annex, Room 400
San Jose, California 95110

Attention: Mr. Noel Ameele

Dear Mr. Hamilton:

Subject: Lands of Whittaker Draft EIR

We have reviewed the subject DEIR and are satisfied it addresses our concerns.

Thank you.

Sincerely yours,

Dr. Bernard H. Goldner
Environmental Specialist
Project Development Branch

CU6-76

Code	Unit Nos.	ADDENDUM TO CITY COUNCIL AGENDA - 1-3-78

(4) CEREMONIAL MATTERS: #1. Delete Mr. Emery E. Adoradio

3. Ordinances for FinalAdoption

(4) 206 76 u. ORD. ~~19035~~ -- DO NOT ADOPT. Ordinance in error. Pass new Ordinance for publication and adopt E.I.R. Resolution. use 19053

PASSED FOR PUBLICATION DEC. 20, 1977 To be

(1) z.9 ORD. 19035 -- Amends San Jose Municipal Code relating to cardroom regulations, cardroom permittees, and employees and fees. (Defer to 1-17-78)

(3) 4a Rejection of Claims: 1. Linda Von Niessen 2. Kathy Williams 3. Alan McPherson 4. Alma Contreras

(3) 6a Request to defer to 1-17-78 at request of Director of Public Works.

(3) 6b Request to defer to 1-17-78 at request of Director of Public Works.

(1) 8v Ordinance providing that references in the San Jose Municipal Code to provisions in Chapter 1 of Article IX (old Zoning Ord.) shall be deemed to be references to corresponding provisions in Article XIX (new Zoning Ordinance).

(3) 10b Request of Councilman Self for deferral to evening session.

(1) 11h Report of Special District Consolidation Task Team. (MGR)

(1) 11i Consideration of four CETA positions for Casa Esperaza. (Mayor Hayes)

(1) 12j Request for approval of proposed Appropriation Ordinance Amendment to the 1964 Gas Tax Construction Fund, providing $62,000 for payment of out-of-court settlement for Bird-Willow Street intersection improvement. (MGR)

(4) 14a DROP.

(4) 16j Should be referred to Administration.

(4) 17d DROP. (Hearing set for 1-24-78)

(3) 18a Continue to 1-17-78.

(3) 20a Protest letter from C. and A. C. Cheney against an increase.

(3) 21b PDC 77-10-221 - Letter of protest from Lawrence and Helen McKenna.

(4) 21c C 77-9-205 - Not a P.D. Rezoning. Zoning is for Single-Family Residential.

(3) 21d One legal protest filed which represents less than 5% of the protest line.

(3) 21e PDC 77-7-148 - Notice did not publish. New Hearing set for 1-10-78.

Source Code: (1) New Additional Item. (2) Deferral from previous Agenda. (3) Supplementary information to existing item on Agenda. (4) Correction and/or explanation to existing item on Agenda.

206-76

Ordinances for Final Adoption (Cont.)

l. ORD. 19029 -- Amends San Jose Municipal Code, pertaining to miscellaneous regulations, to correct a typographical error in Section 3313.1, and to replace the standard of "Good Moral Character".

ADOPTED.

m. ORD. 19030 -- Amends San Jose Municipal Code, deleting the general authorization to suspend or revoke any license or permit if the holder is found to be of "Bad Moral Character", and substituting in lieu a new standard for suspension or revocation upon a finding that certain acts or things have been done.

ADOPTED.

n. ORD. 19031 -- Amends San Jose Municipal Code, relating to the adoption of the Uniform Building Code, 1973 Edition, to delete UBC Section 202 (d) authorizing Warrantless Inspections.

ADOPTED.

o. ORD. 19032 -- Amends San Jose Municipal Code, relating to dangerous building regulations, to delete that language authorizing warrantless inspections.

ADOPTED.

. ORD. 19033 -- Amends San Jose Municipal Code, relating to rights-of-way for visually handicapped persons, by bringing certain sections in conformity with California Vehicle Code.

ADOPTED.

q. ORD. 19034 -- Amends San Jose Municipal Code, relating to the definition of "Holidays", relating to parking time in unmetered zones and relating to time exceptions to parking metered zones.

ADOPTED.

r. ORD. 19036 -- Amends San Jose Municipal Code, deleting the Civil Service Commission from the Selective Certification Process.

ADOPTED.

s. ORD. 19037 -- Approving Annexation of "Jarvis No. 16" to City of San Jose.

ADOPTED.

t. ORD. 19038 -- Approving Annexation of "Ryder No. 34" to City of San Jose.

ADOPTED.

u. ORD. ~~19039~~ -- Amends San Jose Municipal Code, rezoning and prezoning the South side of Tully Road and West side of Ruby Avenue, from County and R-1:B-8 Residence District to R-1:B-6 Residence Dist. C 76-12-180.

NOT ADOPTED. RES. 49670 ENVIRONMENTAL FINDINGS. ORD. 19053 REZONING AND PREZONING SOUTH SIDE OF TULLY ROAD & WEST SIDE OF RUBY AVE. (RUNYON NO).

v. ORD. 19040 -- Amends San Jose Municipal Code, rezoning the North side of McCler Lane, between No. First Street and Zanker Road, to the I-Industrial District. CC 77-11-239

ADOPTED.

w. ORD. 19041 -- Amends San Jose Municipal Code, Prezoning the North side of Blackford Avenue, 1000 feet Easterly of Saratoga Avenue, from County R-1 Residential District to C-Professional District. C 77-9-202.

ADOPTED.

x. ORD. 19042 -- Amends San Jose Municipal Code, Prezoning property 500 feet Northeasterly of Canoas Garden Avenue, 300 feet Westerly of Curtner Avenue, to A (PD) District. PDC 77-9-208

ADOPTED.

y. ORD. 19043 -- Amends San Jose Municipal Code, Prezoning the North side of Curtner Avenue and East side of Almaden Road, to R-3-B (PD) District. PDC 77-7-149

ADOPTED.

z. ORD. 19044 -- Amends San Jose Municipal Code, Prezoning and Rezoning the Southeast corner of Almaden Expressway and Chynoweth Ave., to A (PD) District. PDC 77-9-197

ADOPTED.

CALCS

memorandum

TO Bill Carlsen FROM Win Stiles

SUBJECT Glick Property @ Ruby Creek Debris Basin DATE 1/29/81

Screening Landscaping Recommendations

I recommend the following plants for the subject property:

8 - toyon (Heteromeles arbutifolia)

5 - coast live oak (Quercus agrifolia) - 5 gal size

7 - wild lilac (Ceanothus thyrsiflorus)

3 - western redbud (Cercis occidentalis)

5 - holly-leaved cherry (Prunus ilicifolia)

5 - sugar bush (Rhus ovata)

All plants should be 1-gallon size, planted on 6' centers, unless otherwise noted. It is understood that the property owner will provide establishment care, maintenance, and watering for a minimum two-year period following installation.

Win Stiles
Asst. Envir. Spec.

John

C. Isaac

I believe the engineering/
contingencies is way out of
line.
I think contingencies are
already in the construction
cost estimate and engrg
& inspection should be
8% and 7% respectively.

B
2/27

your thoughts
J

memorandum

To: George Korbay	From: John Richardson
Subject: Ruby Creek	Date: February 27, 1981

Mr. O'Halloran asked what the B/C ratio of the Ruby Creek project is. Apparently Director Dullea was looking at the computer printout we passed around at the Board meeting and asked John this question.

The latest estimate of cost is as follows:

White Road to and including debris basin (Kaufman & Broad)

Construction		$ 1,000,000
Right of way		100,000
		$ 1,100,000
Engineering/Contingencies		300,000
		$ 1,400,000
Average annual cost	=	$ 114,000

The average annual damages shown on computer printout is about $44,000. This is based on a market value tie to the assessed evaluation and we believe the value is about 100% low. Thus, the average annual damages is about $90,000. The B/C ratio could be 90,000/114,000 = .8. This is without taking credit for any indirect benefits.

John R

Head, Project Development Branch
Flood Control

SJO: J. Richardson

Ruby Creek

$1,400,000 50 year 8%

CRF = .08174 × 1,400,000 = $114,436 per year

WPR
26 Feb 81

Bill —

Here's the estimate.

Dick

Ruby Creek Right of Way
Cost Estimate 2/25/81

1.	Hubert Ring	7800.	(actual)
2.	Walter Kampfer	8400.	"
3.	Marie Inderbitzen	21950.	"
4.	Maxine Ellis	20000.	"
5.	Jean Hicks	24300	(estimated)
6.	Kenneth Hall (2 parcels)	2750	"
7.	Dept. of Veterans Affairs (Bibby)	3750	"
		$ 88,750.	

TO: J. Richardson

Ruby Creek - Cost Est. Feb 24, 1981

City Proj. - 160' upstream of White to Flint Ruby Ch.

84" RCP	$61,000
84" CIPP	146,000
M.H.	28,000
Inlet	1,500
Outlet	$11,000
Subtotal	247,500

Hunt Proj.

Conc. Pipe	600,000
Basin	130,000
Fencing	18,000
Sub total	$748,000
city	247,500
Total Const.	995,500 say 1,000,000
R/W Cost. est.	90,000
Total	$1,090,000

Above does not include Engineering, Inspection or contingencies

MJF Feb 26 1981

Santa Clara Valley Water District

DESI(X CONSTR. UNIT
FC 30 (01-19(76)

MEMO ROUTING SLIP

No.	Name	Info	Action	Initial
1	J. Richardson			
2				
3	Mr Korbay			GK
4	Mr Richardson			
5	if K&B want the project,			
6	they'd better try it			
7				
8	Mr Carter			

Comments:

Look like about $30,000 additional cost for using "grasscrete" in place of concrete

lots of $ " profit from one house?

From: UFC

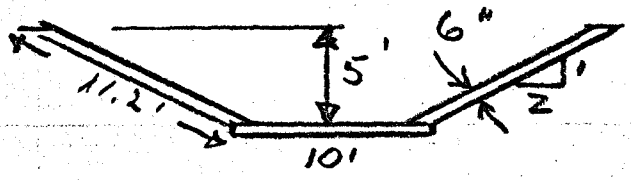
Date: 30 Apr 80

S. ..NTA C. .RA VALLEY WATER DISTRICT, Jose, ifornia

By WFC Date 29 Apr 80 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CR - SED BASIN - CONC. LINING Job No. _____

PCC Lining



$V_{cone} = \frac{32.4 \times .5}{27} = .64 \text{ yd}^3/' \text{ @ } \$150/\text{yd} = \$90/'$

Length inc. outlet 418'
Inlet = 35'
Total length = 453'

Total Conc. cost = 453 × $90 = $40,700

"Grasscrete" (incl. seeding)

30.4 #/' @ $5/# = $152/'

Length = 453'

Total "Grasscrete" cost = $152 × 453 = $69,000

Direct Cost Difference = 69,000
40,700
$28,300

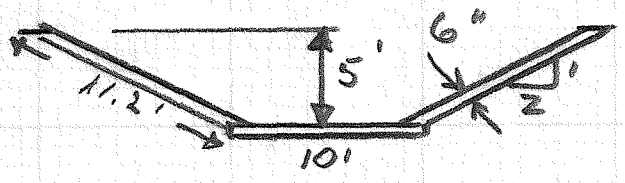
Add for seeding watering etc 1,700
Add'l Cost = $30,000

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date 29 Apr 80 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CR. - SED BASIN - CONC. LINING Job No. _____

PCC Lining



$V_{conc} = \frac{32.4 \times .5}{27} = .64\ yd^3/'$ @ \$150/yd = \$90/'

Length inc. outlet 418'
Inlet = 35'
Total length = 453'

Total Conc. cost = 453 × \$90 = \$40,700

"Grasscrete" (incl. seeding)

30.4 ft²/' @ \$5/ft² = \$152/'

Length = 453'

Total "Grasscrete" cost = \$152 × 453 = \$69,000

Direct Cost Difference = 69,000
40,700
\$28,300

Add for seeding watering etc \$1,700

Add'l Cost = \$30,000

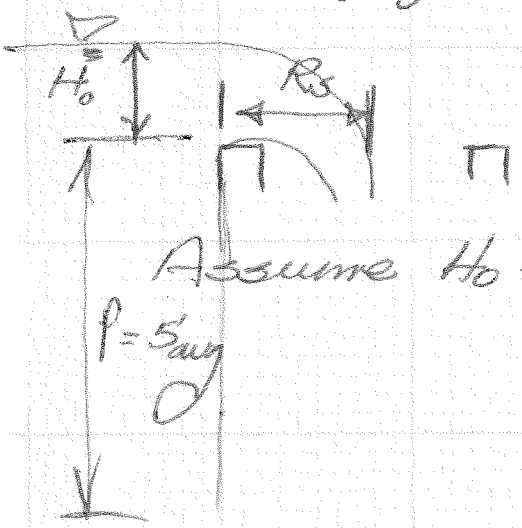
SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date Apr 17, 1980 Chkd. By _____ Date _____ Sheet No. 1 of _____

Subject RUBY CREEK - MAIN SPILLWAY Job No. _____

Inlet Pipe I.D. = 78" Per. = 20.42

$t = 6\frac{5}{8}$" Ref. Design Sm Dams p. 313-318



$R_s = \frac{78}{2} + 6\frac{5}{8} = 45\frac{5}{8}" = 3.8'$

Assume $H_o = 1'$ $\frac{H_o}{R_s} = \frac{1}{3.8} = .263$ ∴ weir flow controls

$\frac{P}{R_s} = \frac{5}{3.8} = 1.31$

Ref Fig 223 p. 314 $C_o = \frac{Q}{2\pi R_s H_o^{3/2}}$

$C_o = 3.85$ $Q = 3.85(2\pi)3.8(1)$

$= 3.85 \times 6.2832 \times 3.8 = 92$ cfs

Assume $H_o = 2'$

$\frac{H_o}{R_s} = \frac{2}{3.8} = .525$

for $\frac{H_o}{R_s} = .525$ & $\frac{P}{R_s} = 1.31$ $C_o \approx 3.4$ $2^{3/2} = 2.828$

$Q = 3.4 \times 6.2832 \times 3.8 \times 2.828 = 228$ cfs

(1% flow at Sed. Control fac = 173 cfs.)

$\frac{H_s}{H_o} = 1.085$ $H_s = 1.085 \times 2 = 2.2'$

∴ at 228 cfs = W.S = 328.8 + 2.2 = 331.0

By WFC Date 17Apr80 Chkd. By _____ Date _____ Sheet No. 2 of _____

Subject Ruby Creek Sed. Basin Job No. _____

Assume $H_o = 1.7$ ft. $1.7^{3/2} = 2.216$

$\frac{H_o}{R_s} = \frac{1.7}{3.8} = .45$ $\frac{P}{R_s} = 1.3$ $C_o = 3.53$

$Q = 3.53 \times 6.2832 \times 3.8 \times 2.216 = 186$ cfs.

Assume $H_o = 1.6$ ft. $1.6^{3/2} = 2.024$

$\frac{H_o}{R_s} = \frac{1.6}{3.8} = .42$ $P/R_s = 1.3$ $C_o = 3.58$

$Q = 3.58 \times 6.2832 \times 3.8 \times 2.024 = 173$ cfs

O.K.

$\frac{H_s}{H_o} = 1.067$ $H_s = 1.067 \times 1.6 = 1.7'$

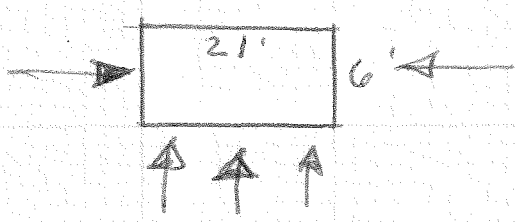
∴ 1% WATER SURFACE IN BASIN = 328.8

∴ Min elev. of em spillway ⇒ + 1.7 = 330.5

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date 17 Apr 80 Chkd. By _____ Date _____ Sheet No. 3 of _____

Subject RUBY CR. - EMERGENCY SPILLWAY Job No. _____



$P = 21 + 12 = 33$ ft.

Ref. I.T.T.E. chart. 1073.02

Check design w.s. for $Q_{4\%} = 116$ cfs.

Head allow for $Q/P = \frac{116}{33} = 3.5 = 1.2'$

$\frac{2'}{3.2}$ F.B.

if grat is at 330.5

3.2

top Dam = 333.7

330.5
1.2

330.5
1.2
331.7
332.0 O.K.

WFC
25 Nov 80

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date _____ Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CREEK Job No. _____

CHECK 54" ϕ FOR $Q_{1\%} = 230$ CFS

$S = .029$ FOR $V = 20^{1/s}$ $D_n = 3'$

$S = .015$ FOR FULL FLOW

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date 24 APR 80 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CR Job No. _____

ASSUME PIPE FLOWS FULL TO ELEV. 130

$A_{84''\phi} = 38.49$ □ $Q_{1\%} = 260$ CFS Use $t = 8''$

$V = \frac{260}{38.49} = 6.75'/s$

STA 11+00 TO 17+06

72"ϕ at $S = .00953$ $V = 14'/s$ Use 5000psi conc. std t add ½" thickness Use $t = 7\frac{1}{2}''$

STA 17+06 TO 22+78

72"ϕ at $S = .0121$ $V = 15'/s$ same as above

STA 22+78 TO 25+66.85

66"ϕ at $S_{max} = .0173$ $Q_{1\%} = 230$ cfs $S^{1/2} = .1315$

$5.5^{8/3} = 94.25$

$K' = \frac{Qn}{d^{8/3} S^{1/2}} = \frac{230 \times .015}{94.25 \times .1315} = .278$

$\frac{D}{d} = .558$ $D = .558 \times 5.5 = 3.07'$

P. 7-11 KINGS $A = c d^2$

$A = .451 \times 5.5^2 = 13.6$ □

$V = \frac{Q}{A} = \frac{230}{13.6} = 16.9'/s$

$\therefore t = 5.5$
$+ 1$
$+ \frac{1}{2}$
$7.0''$

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date 24APR80 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CR. Job No. _____

STA 25+66 TO 28+86.47

$Q_{1\%} = 230$ CFS

60" ϕ at $S = .0201$ $V = 18'/s$ $t = 5''$

$1''$

$1/2''$

$t = 6\frac{1}{2}''$

STA 28+86.47 TO 31+46.78

$Q_{1\%} = 230$ CFS

60" ϕ at $S = .0355$ $V = 22'/s$ TOO FAST

$S \cong .03$ appears limit for $20'/s$

$$CD^2 = \frac{230}{C \cdot 25} = 20$$

$$C = \frac{230}{20 \times 25} = .46 \qquad \frac{D}{d} = .5578$$

$K' = .276$ $d = 5$ $5^{8/3} = 73.1$

$$S^{1/2} = \frac{Qn}{K' d^{8/3}} = \left(\frac{230 \times .015}{.276 \times 73.1}\right)^2$$

$= .0292$

Use $S = .029$ as max slope if cast in place pipe is used.

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

By WFC Date 17 Apr 90 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CREEK - INLET TO SED. BASIN Job No. _____

54" CMP

Ex. pvt. Klein Rd = 341.0
Inv. 334.5
Head Avail = 6.5'

~~Slope inlet ch.~~

1. TTE chart 1056
head for 100 flow of 173 cfs.

$\frac{HW}{D} = 1.2$ $HW = 1.2 \times 4.5 = 9.0'$

Use 60" ϕ $HW = 1.45 \times 5 = 7.2'$

$A = 19.64$ $V = \frac{Q}{A} = \frac{173}{19.64} = 8.8$ '/s flowing full

V = 16'/s in CMP.

Try 6'-1" x 4'-7" pipe arch
$HW = 1.27 \times 4.58 = 5.8'$

Try 72" x 44" $\frac{HW}{D} = 1.96$ H.W. = 1.96 x 3.67 = 7.2'

RUBY CREEK - DATA.

~ 260 homes subject to sheet flooding

Total cost Ruby Creek project to 50' west of White Rd
incl. constr, r/w, ~~[illegible]~~ ≅ $800,000

Q, 10% at Sed. Control fac = 190 cfs
2% " " " = 170 cfs
Drainage area " " " = 270 acres

Q, 10% at White Rd = 260 cfs
2% " " " = 240 cfs
D.A. " " " = 900 Acres.

Ruby Cr. Debris Basin

Concrete Paving
Use t = 6"

34' x 380' x .5 = 6450 cu ft
6450/27 = 174 yd³

174 yd³ @ $150/yd³ = $26000

Fence
750
450
1200' x $5 = $6000

Kline Rd Fill

19' x 27' / 27 = 19 yd³/' x $8/yd³ = $152/'

L ≅ 300' 300 x 152 = $46000

Kline Rd Culvert 100' x $100/' = $10,000

Kline Rd. Sack Cone. 135 yd³ @ 100 = 13000

RW = 82,000
101,000
$183,000
not incl. inlet str.

26000
6000
46000
10000
13000
$101,000

UPL
10 Mar 80

Assume inlet str & same cost.

Ruby Creek

	Retention Basin	New R/W for Road	Existing R/W for Ret. Basin
Indenbitzer 5.497 ac $36000/ac	0.478 Ac. $17200	~~0.228 ac.~~ ~~$8200~~	
Dept. of Nat. Affairs .781 ac $25000 ac	0.056 Ac. $1400		
Shick 0.839 ac $60000 site	0.351 Ac. $21000		
Ellis .511 ac $10000 ac	0.253 Ac. $2550	~~$1150~~	$100 (nominal)
Kampfer 6.59 ac $34000/ac	0.374 Ac. $12700		$100 (nominal)
Hale 1.235/ac $65000 site	0.016 Ac. $500	$200	$100 (nominal)

	Retention Basin	New R/W for Road	Existing Rd. R/W for Ret. Basin
King			
1.958 ac			
110,000 psf	$100	$500 ~~$100~~	$100 (nominal)
Hall			
3.89 ac			
$40000 ac		$200	$100 (nominal)
Total	$55,450	$~~[illegible]~~ 900	$500

Call $57,000 for R/W
20,000 Legal + appraisal
5 000 Acq. ~~or~~ labor

Total 82,000

To: John Richardson

Ruby Creek Pipe Cost Estimate

RCP - $600,000

CIPP - $370,000

Special Provisions if no debris basin

(1) Add for additional 1" thickness of concrete - $70,000

(2) Add for no angle bends - all curves - $300

(3) Add for no decreasing pipe size from 60" to 54" - $9000

(4) 5000 psi concrete - put no add'l cost

(5) Add for access Rd at Cunningham $120,000

UR
7 MAR 80

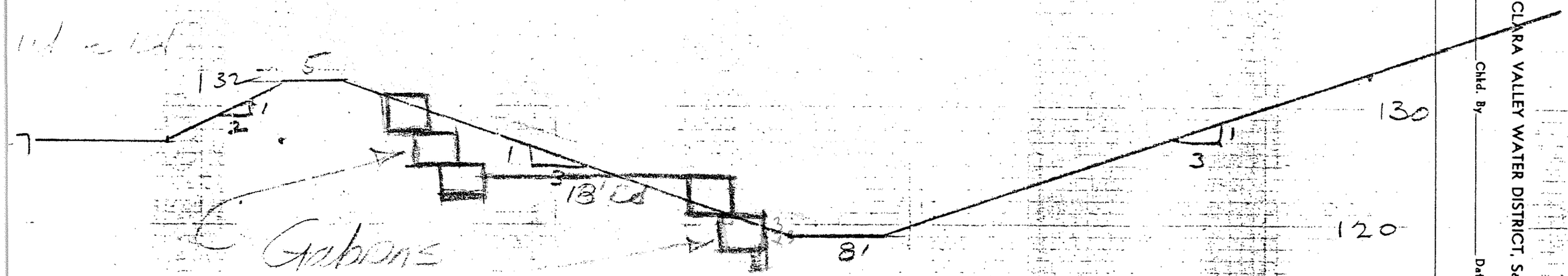
70,000
300
9000
120,000
Total $199,000

P-1

SANTA CLARA VALLEY WATER DISTRICT, San Jose, California

Subject _____ Date _____ Chkd. By _____ Date _____ Sheet No. ____ of ____

Job No. _____



$\frac{45}{27}$ = 1.77 yd³/'

1.77 x 120 = $200/'

200 x 600 = $120,000

RUBY CR

LOOKING UPSTREAM

Proposed Channel to Coyote Creek

Reserved for Coyote Creek

$125/4

5

3/625

$ 1/2 208/'

6070

$125,000

Costs to increase abrasion resistance of pipe

(1) Add'l thickness to give 2" cover over steel in RCP or 1¼" add'l t in cast-in place pipe.

84" RCP Cl. IV 136.30
Cl III 121.15
15.15 × 760 = $11,800

72" RCP 105.70
88.85
16.85 × 1173 = 19,800

60" RCP. 78.50
67.40
11.10 × 3783 = 42,000
5716 $73,600

(2) No sharp angle bends, all curves with min radius of 45'
est 500' @ .50 = $250

(3) No reduction in pipe size from 60" to 54".
1554' @ $5 × 10% = $780
$8550
8600

(4) 5000 psi concrete specified in place of 4000 psi. prob not significant cost as first came out above 5000 psi.

WFC 7 MAR 80

7-851.6 Strength Requirements for Reinforced Concrete Pipe

Table 7-851.6 gives the maximum height of overfill for reinforced concrete pipe, up to and including 108″ diameter, relative to Method A and Method B backfill. The Method B backfill method is for use on single pipe installations only. Any plan to utilize Method B backfill or any other culvert backfill method that varies from the specified Method A backfill shall be submitted to the Division of Structures for an evaluation of the structural adequacy of the proposed installation. The D-load requirement for maximum height of overfill is based on the cracking D-load producing an 0.01″ crack 12 inches long under the three edge bearing test called for in AASHTO Designation M-170. Pipe shall be ordered by the cracking D-load shown in the table.

The designer should be aware of the premises on which the table is computed as well as its limitations. Table 7-851.6 presupposes:

- That bedding and backfill satisfy the terms of the Standard Specifications, the conditions of cover and pipe size required by the plans, and take into account the essentials of Index 7-821.15.
- That a small amount of settlement will occur under the culvert equal in magnitude to that of the adjoining material outside the trench.
- Subexcavation and backfill as required by the Standard Specifications where unyielding foundation material is encountered.

Table 7-851.6 gives height of cover based on conditions normally encountered. As stated above, the designer shall consider the following instructions:

- Where severe abrasion or wear from high velocity is anticipated, at least two inches of cover over the reinforcing steel shall be specified by special provision. Specifying thick walled pipe will not assure two inches of cover over the steel.
- In corrosive environments, consideration shall be given to the requirements of Index 7-851.3(2).
- If the height of overfill exceeds the tabular values or is greater than 100 feet, a special design is required; see Index 7-821.15(3).

normal is 3/4" per C. Perry Amarone

7-851.7 Strength Requirements for Asbestos Cement Pipe

Table 7-851.7 gives the maximum height of overfill for commercial asbestos cement pipe, regardless of diameter, relative to Method A backfill as required in the Standard Specifications. The D-load requirement for maximum height of overfill is based on the ultimate D-load. This is the actual test load of the crushing strength under the three edge bearing test called for in the Standard Specifications or special provisions performed in accordance with the requirements of AASHTO Designation T-33. Pipe shall be ordered by the crushing D-load shown in the table.

TABLE 7-851.6

Strengths and Uses of Reinforced Concrete Pipe for Diameters from 12″ to 108″

Class[1] of Pipe	Cracking D-Load	Ultimate D-Load	Maximum Height of Cover (ft.)		Principal Highway Use
			Method A Backfill	Method B[5] Backfill	
I	300D	1,200D	—	—	Not adequate for highway use.
II	1,000D	1,500	16	31	For normal culverts and highway drainage systems. This class may be used for pipe shaft manholes and drop inlets.
III	1,350D	2,000D	20	43	Same as Class II—sustains greater load.
	1,700D [2]	2,500D [3]	24	53	Same as Class III—sustains greater load.
IV	2,000D	3,000D	28	65	Same as Class III—sustains greater load.
	2,500D [2]	3,400D [3]	35	83	Same as Class IV—sustains greater load.
V	3,000D	3,750D	41	100	Same as Class IV—sustains greater load.
	3,600D [2]	4,200D [3]	49	(Note 4)	Same as Class V—sustains greater load.

NOTES:
(1) Conforms to AASHTO Designation M-170.
(2) Special Strength-Cracking D-load shall be used in ordering or specifying pipe.
(3) Interpolated or extrapolated.
(4) Cover heights exceeding 100′ shall be considered a special design.
(5) For single pipe installations only.

The designer should be aware that Table 7-851.7 is based on the same presuppositions as for reinforced concrete pipe as outlined under Index 7-851.6.

The allowable heights of cover shown in Table 7-851.7 are based on conditions normally encountered, but the designer shall also consider the following instructions:

- Under abrasive conditions the use of asbestos cement pipe is restricted to Q_{10} velocity of five feet per second; see Index 7-851.3(2).
- In corrosive environments consideration shall be given to the requirements of Index 7-851.3(2).
- If the height of overfill exceeds the tabular values, a special design is required; see Index 7-821.15(3).

RUBY CREEK

580
180
760

7 MAR 80

Cost Comparison Cast in Place vs RCP

at least $230,000 Savings as of ~~Upon app add 10% = $220,000~~

760'	84" Class IV	CIPP @	$85	=	$64,600
		RCP	163		124,000
					60
					60

600	72"	1173 CIPP @	$68	=	$80,000
573		RCP @	128	=	150,000
1173					

117	66"	288 CIPP @	$58	=	16,700
171		RCP	76		22,000
288					

320	60"	580 CIPP @	50	=	29,000
260		RCP	$76		44,000
580					

288	54"	1554 @ CIPP	$45	=	70,000
352		RCP	$60	=	$93,000
414					
500					
1554					

377	60"	1361 CIPP	$50	=	103,500
312		RCP.	$76		68,100
308					
182					
182					
1361					

CIPP $328,400

328,400 ×1.10 = $370,000

pipe cost only

760	
1173	
288	
580	
1554	
1361	
5716	

288	
580	
1554	
1361	
3783	

60	
70	000
35	400
23	
15	
5	300
208,700	
×10%	
= 230,000	

60+62.63
3+96.00
76.63

add for RCP

Total for RCP $680,000

6 Mar 80

for 500 ft. per A. Moody

Ameron. 72" $88 clean 3

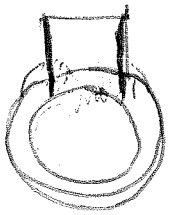
72" $104 clean 4

f.o.b job site

to install double coat

Carl Perry Ameron.

Mrs Willem Dias 415 782-5300



cost

54"

60"

72"

84"

high velocity 20' thick

McAllee Ferrari Bid pumps cost on pipe connection pipe

Flint

1955 The Alameda.

3/4" cover. mow

1 1/2" cover.

54" cl.	III	56.35	4½"
	IV	65.10	6¼"
60" cl	III	67.40	5"
	IV	78.50	6⅞"
72" cl.	III	88.85	6"
	IV	105.70	7⅞"
84" cl	III	121.15	7"
	IV	136.30	8⅞"

f.o.b. Sanlorenzo

from Willene Dias
Amerron 6MAR80
415-782-5300

beveled pipe for curves
add 415 4 1 1

MacKay & Somps
CIVIL ENGINEERS

M
&S

1955 THE ALAMEDA
SAN JOSE, CALIFORNIA 95126
(408) 985-0960

TRANSMITTAL LETTER

TO: SCVWD
5750 Almaden Expressway
San Jose, CA 95118

ATTN: William Carlson

JOB: 11,034

DATE: March 6, 1980

SUBJECT: CIPP Costs

Description of Enclosed:

Bid prices for flood control type pipe projects on Macabee Creek and Flint Creek per your request.

Message:

On Macabee only two lowest available: Both bid RCP

On Flint some both ways. Street crossings were RCP or CMP. Low bidder did not get contract because he could not meet time schedules.

MACKAY & SOMPS

BY: Ben B. White, Special Projects Manager

cc:

JOB TITLE: FUNI CREEK IMPROVEMENTS

BID OPENING DATE: JULY 1979

UNDERGROUND - BID SUMMARY

			BID ITEMS	ENGINEERS ESTIMATE		CONTRACTOR'S BIDS							
						RD ENG.		SANCO		PESTANA		WESTERN APELINE	
ITEM NO.	QUANTITY	UNITS	DESCRIPTION	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL
1a	538	LF	96" RCP - CLASS III									150.00	80,700.00
1b	538	LF	96" CIPP			113.70	61,170.60	121.00	65,098.00	116.00	62,408.00	110.00	59,180.00
2a	1,852	LF	84" RCP - CLASS III									120.00	222,240.00
2b	1,852	LF	84" CIPP			97.90	181,310.80	106.00	196,312.00	91.00	168,532.00	76.00	140,752.00
3	139	LF	84" RCP - CLASS III FLINT AVE CROSS			170.65	23,720.35	202.00	28,078.00	280.00	38,920.00	163.00	22,657.00
4	348	LF	72" RCP - CLASS III WHITE RD. CROSS			164.60	57,280.80	195.00	67,860.00	183.00	63,684.00	128.00	44,544.00
5	100	LF	72" CSP (8 ga.)			175.00	17,500.00	130.00	13,000.00	132.00	13,200.00	140.00	14,000.00
6a	1,699	LF	66" RCP - CLASS III									90.00	152,910.00
6b	1,699	LF	66" CIPP			64.90	110,265.00	92.00	156,308.00	61.00	103,369.00	58.00	98,542.00
7a	173	LF	66" RCP CLASS IV			147.00	25,431.00					100.00	17,300.00
7b	173	LF	66" CIPP					92.00	15,916.00	75.00	12,975.00	58.00	10,034.00
8	183	LF	66" RCP - CLASS IV			157.00	28,731.00	150.00	27,450.00	168.00	30,744.00	94.00	17,202.00
9a	583	LF	54" RCP - CLASS III			110.00	64,130.00					80.00	46,640.00
9b	583	LF	54" CIPP					102.00	59,466.00	100.00	58,300.00	55.00	32,065.00
10a	1,676	LF	48" RCP - CLASS III									70.00	117,320.00
10b	1,676	LF	48" CIPP			77.00	129,052.00	70.00	117,320.00	68.00	113,968.00	45.00	75,420.00
11	45	LF	30" RCP - CLASS IV			75.00	3,375.00	110.00	4,950.00	60.00	2,700.00	28.00	1,260.00
12a	19	EA	CMP MANHOLES							5,000.00	95,000.00	5,200	98,800.00
12b	19	EA	REIN. CONC. MH			3,000	57,000.00	2,800.00	53,200.00	3,500	66,500.00	4,200	79,800.00
13a	1	EA	CMP MANHOLE			5,000	5,000.00			7,000	7,000.00	7,500	7,500.00
13b	1	EA	REIN. CONC. MH					4,000	4,000.00	5,500	5,500.00	6,000	6,000.00

JOB TITLE: FLINT CREEK IMPROVEMENTS

BID OPENING DATE: July 1979

UNDERGROUND - BID SUMMARY

		BID ITEMS		ENGINEERS ESTIMATE		CONTRACTOR'S BIDS: RD Enk.		SANCO PIPELINE		PESTANA		WESTERN PIPELINE		
ITEM NO.	QUANTITY	UNITS	DESCRIPTION	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL	UNITS	TOTAL	UNITS
14	2	EA	Special large inlet			4,400	8,800.00	4,500	9,000.00	4,000	8,000.00	2,000	4,000.00	
15	LS		Twin 72"-96" junction structure			9,000	9,000.00	15,000	15,000.00	12,800	12,800.00	22,000	22,000.00	
16a	LS		CMP 54"/66"/84"			4,000	4,000.00	7,000	7,000.00			25,000	25,000.00	
16b	LS		Rein. conc. 54"/66"/84"							11,200	11,200.00	20,000	20,000.00	
17	LS		Sacked rip-rap 72" cmp's			17,150	17,150.00	21,000	21,000.00	4,500	4,500.00	6,000	6,000.00	
18	225	LF	42" ID steel pipe			220.00	49,500.00	150.00	33,750.00	150	33,750.00	150.00	33,750.00	
19	10	EA	Reset sewer manhole casting			400.00	4,000.00	150.00	1,500.00	250	2,500.00	150.00	1,500.00	
20	4	EA	PCC cutoff collars			2,000	8,000.00	1,000	4,000.00	1,500	6,000.00	1,000	4,000.00	
							864,416.55		900,208.00		819,820.00		682,706.00	

LOW BIDDER

CONTRACTED TO ASSURE SCH. COMPL.

3966-3
3/1/79
B.F.

SEWERS

PROPOSAL

TRACT NUMBER 6216

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
Storm Sewers					
1.	2	Each	Standard City of San Jose storm manhole type D-14	860.00	1,720.00
2.	2	Each	Standard City of San Jose storm manhole type D-13	980.00	1,960.00
3.	9	Each	Santa Clara Valley Water District standard storm manhole as detailed on sheet No. 10 of improvement plans	4,000.00	36,000.00
4.	65	L.F.	60" CMP (~~12~~ 10 gallons)	80.00	5,200.00
5.	139	L.F.	60" RCP Class ~~IV~~ III including backfill with sand equivalent of 30 through lots 324 and 325	78.00	10,842.00
6.	200	L.F.	60" RCP Class ~~XXXX~~ IV	76.00	15,200.00
7.	415	L.F.	60" ~~XXXXX~~ RCP constructed in accordance with special specifications for nonreinforced cast-in-place pipe	71.00	29,465.00
8.	1,397	L.F.	54" ~~XXXX~~ RCP constructed in accordance with special specifications for nonreinforced cast-in-place pipe	60.00	83,820.00
9.	140	L.F.	54" RCP Class III - Including pavement replacement of approximately 275 lineal feet	120.00	16,800.00
10.	548	L.F.	36" RCP Class III	31.00	16,988.00
11.	70	L.F.	33" RCP Class III	28.00	1,960.00
12	472	L.F.	21" RCP Class III	19.00	8,968.00

Sanco Low

WILLIAM CAPRISTA UNDERGROUND CONSTRUCTION INC.
459 Piercy Road San Jose, Ca 95138

3956-3
3/1/79
B.F.

SEWERS

PROPOSAL

TRACT NUMBER 6216

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
Storm Sewers					
1.	2	Each	Standard City of San Jose storm manhole type D-14	2000.00	4000.00
2.	2	Each	Standard City of San Jose storm manhole type D-13	1100.00	2200.00
3.	9	Each	Santa Clara Valley Water District standard storm manhole as detailed on sheet No. 10 of improvement plans	2300.00	20700.00
4.	65	L.F.	60" CMP ~~(12 gallons)~~ 10 GA.	120.00	7800.00
5.	139	L.F.	60" RCP Class ~~IV~~ cl. III including backfill with sand equivalent of 30 through lots 324 and 325	105.00	14595.00
6.	200	L.F.	60" RCP Class ~~III~~ IV	105.00	21000.00
7.	415	L.F.	60" CIPP constructed in accordance with special specifications for nonreinforced cast-in-place pipe	81.00	33615.00
8.	1,397	L.F.	54" CIPP constructed in accordance with special specifications for nonreinforced cast-in-place pipe	75.50	105473.50
9.	140	L.F.	54" RCP Class III - Including pavement replacement of approximately 275 lineal feet	110.00	15400.00
10.	548	L.F.	36" RCP Class III	30.00	16440.00
11.	70	L.F.	33" RCP Class III	27.50	1925.00
12	472	L.F.	21" RCP Class III	15.60	7363.20

Capristo - Storm 285,452.55
Sanitary 83,957.90
Total 369,410.45
O= [illegible]

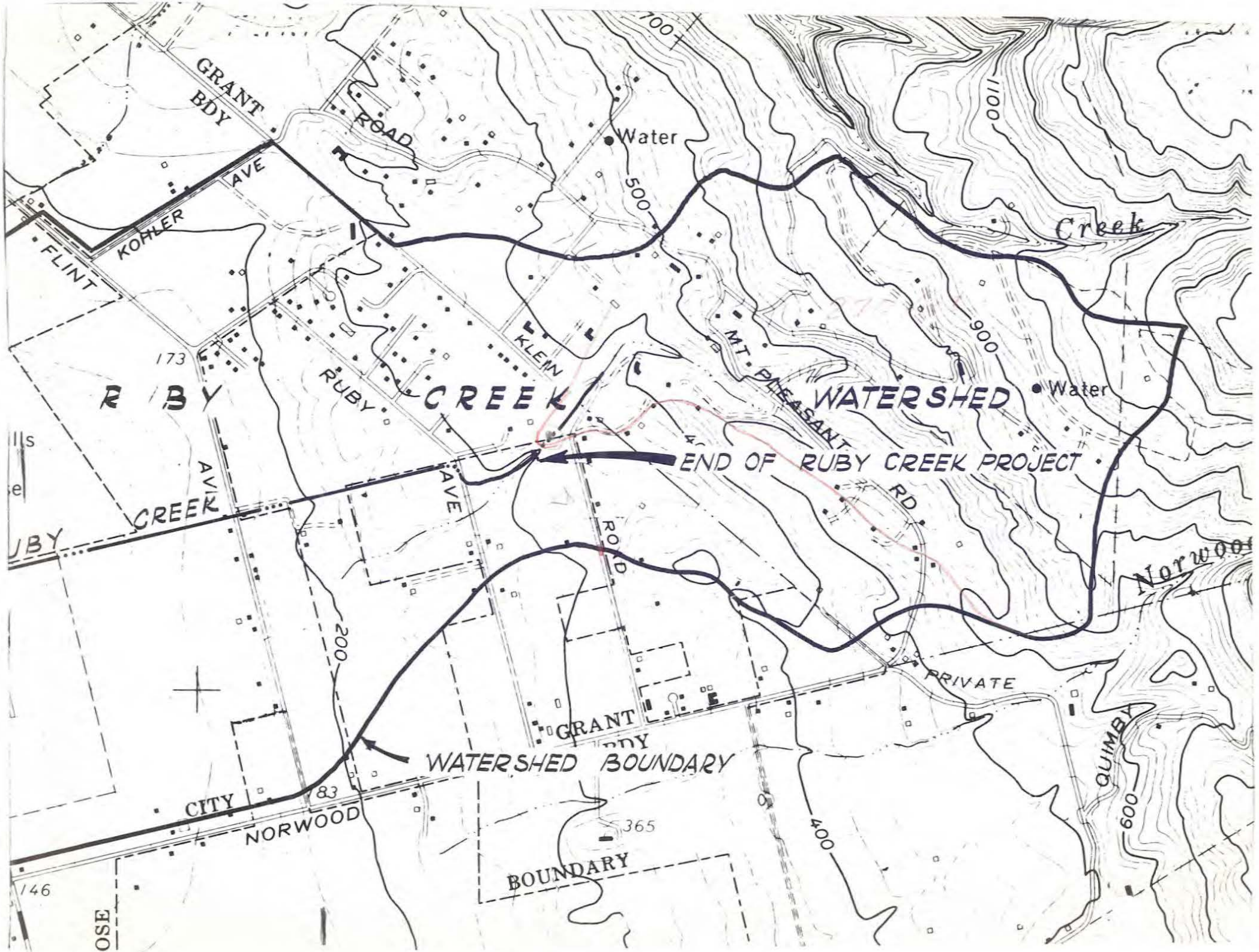
W.M. LYNCH co.
CAST-IN-PLACE CONCRETE PIPE
RT. 2, BOX 5220, DIXON, CALIFORNIA 95620 • (916) 678-2305
1621 LA MIRADA DRIVE, SAN MARCOS, CALIFORNIA 92069 • (714) 744-3370

January 5, 1979

ESTIMATING PRICES FOR CAST-IN-PLACE CONCRETE PIPE

SIZE	PRICE PER FT.	MINIMUM FOOTAGE
24"	$17.00 TO $19.00	600
27"	19.00 TO 20.00	600
30"	19.00 TO 22.00	600
36"	23.00 TO 25.00	500
42"	26.00 TO 28.00	400
48"	32.00 TO 36.00	400
54"	40.00 TO 45.00	300
60"	45.00 TO 50.00	250
66"	50.00 TO 58.00	250
72"	60.00 TO 68.00	250
84"	75.00 TO 85.00	250
96"	90.00 TO 105.00	500

THESE PRICES ARE FOR AN AVERAGE JOB, IN AVERAGE GOOD DIGGING IN GOOD STANDING VERTICAL DITCH, AND WITH AMPLE WORKING SPACE. SUBJECT TO CHANGE WITHOUT NOTICE. MINIMUM FOOTAGE REQUIREMENTS WILL NOT HOLD ON JOBS WHERE OTHER SIZES OF PIPE ARE TO BE INSTALLED WHEN FOOTAGE FOR OTHER SIZES EXCEED THE MINIMUM FOR THOSE SIZES. THESE PRICES INCLUDE EXCAVATION, INSTALLATION AND BACKFILL, BUT DO NOT INCLUDE PAVEMENT BREAKAGE OR REPLACEMENT.


GRANT
BDY
ROAD
Water
700
1100
500
AVE
KOHLER
FLINT
Creek
900
173
KLEIN
MT. PLEASANT
RUBY
CREEK
WATERSHED
Water
END OF RUBY CREEK PROJECT
AVE
AVE
CREEK
ROAD
RD
Norwood
200
PRIVATE
GRANT
BDY
WATERSHED BOUNDARY
CITY
NORWOOD
83
365
400
QUIMBY
600
BOUNDARY
146

REACH 6A
60" CONCRETE PIPE

REACH 6B
48" CONCRETE PIPE

REACH 6C
54" CONCRETE PIPE

REACH 6D
60" CONCRETE PIPE

REACH 7 - DEBRIS BASIN AND NATURAL CHANNEL
CLEAR ALL WINDFALL & UNDERBRUSH AND PROVIDE RAMP OF ACCESS ROAD FOR MAINTENANCE.

PROVIDE 12' DOUBLE DRIVE GATE

RENO DRIVE

TRACT No 4173

TULL ROAD

CONNECT EXIST. LINE WITH 18" RCP
60" RCP
EX. 18" RCP
EXIST. 18" RCP
10" VCP
8" VCP
12.5' RIGHT-OF-WAY
*EXIST. 12" RCP
54" RCP
60" RCP
48" RCP
*EXIST. 12" RCP TO BE ABANDONED
65+00
70+00
75+00
80+00
90+00
97+50
END PROJECT
R=150'
25' RIGHT-OF-WAY
60" RCP
TEE

CITY TITLE INS. CO.

TRACT No 4584

CITY

INDERBITZEN

KAMPEEN

BIBB

KIRIN

KAMPEEN

INSTALL CHAIN LINK FENCE

ELLIS

HALL

INNOCENTI

PROVIDE 12' DOUBLE DRIVE GATE

KING

RIGHT-OF-WAY FOR DEBRIS DAM

INS. & CO.

T.T.

RUDY

NEW INLET LOCATION

EXISTING SWALE TO REMAIN FOR LOCAL DRAINAGE AND EMERGENCY SPILLWAY FLOW

R/W Presently ASKED FOR 7/15/77

INSTALL DROP INLET & HEADWALL

ALTERNATIVE STEEL SHEET PILING DEBRIS DAM

EARTH FILL DEBRIS DAM

File # 77 S 532
Debris Basin Relocation Comps.

STA. 60+60
EXISTING STREET ℄
STA. 60+60 CONSTRUCT M.H.
61+92± CONSTRUCT M.H.
EXIST. 18" RCP
EXISTING 12" RCP
48" RCP @ S=0.106
186.9± 18" IN
60" RCP
178.4 60" OUT
181.0± 18" IN & OUT
179.3 48" IN

STA. 66+50 CONSTRUCT M.H.
54" RCP
227.8 ~ 54" IN
227.8 ~ 48" OUT

STA. 71+50 CONSTRUCT M.H.
EXIST. 12" RCP
54" RCP @ S=0.0780
266.8 ~ 60" IN
266.8 ~ 54" OUT
261.1± EXIST. 12" RCP TO BE ABANDONED & 15" RCP CONNECTED TO 54" RCP
60" RCP @ S=0.027

STA. 76+50 CONSTRUCT M.H.
60" RCP @ S=0.010
280 ± 60" TIED

STA. 82+75
INSTALL EARTH FILL (OR ALTERNATIVE STEEL SHEET PILING) DEBRIS DAM

STA. 83+50 DROP INLET & HEADWALL
305.0
302.0
298.0
287.0

EXISTING CHANNEL BOTTOM

~ Volume calcs for Debris basin ~

New location:
110' Feet Down
stream of old one...

NOTE: OLD LOCATION'S GRADES USE AT NEW LOCATION

Σ VOL	CONTOUR ELEV	PLANIMETER READING 5"	AREA (ACRES)	Δ ELEV	VOL ACRE FEET
6.81	305	3.6	.83	3	2.18
4.63	302	2.7	.62	2	1.15
3.48	300	2.3	.53	6	2.34
1.14	294	1.1	.25	4	0.82
0.32	290	0.7	.16	2	0.23
0.09	288	0.3	.07	2	0.09
0	286	0.1	.02	—	0+

✓ AREA = $IN^2 \times \frac{FT^2}{IN^2} \times \frac{1 \text{ Acre}}{43560\ FT^2}$

* $Vol = \frac{A_1 + A_2}{2} \Delta ELEV$

REFER TO TRACING FOR LATEST REVISION

REV	DESCRIPTION	SUB	APPR

1. DATE OF PHOTOGRAPHY MAY 15, 1967 MISSION 6714
2. BASE MAP PREPARED BY
GEORGE S. NOLTE ENGINEERING CIVIL ENGINEERS INC.
2850 MIDDLEFIELD RD. PALO ALTO, CALIFORNIA

TITLE

CONTOUR INTERVAL FEET

RUTH AND GOING
ENGINEERING • ARCHITECTURE
919 THE ALAMEDA • SAN JOSE, CALIFORNIA

Jno H. Ruth
CE # 7147

DATE JULY '69
DESIGN CNJ
DRAWN DEF
CHECKED HL

santa clara county
FLOOD CONTROL and WATER DISTRICT

DESIGNED AND DRAWN BY:

ENGINEERING APPROVAL
William M. Roman
PROJECT ENGINEER

ACCEPTED BY DISTRICT
Lloyd C. Fowler
DISTRICT ENGINEER R.C.E. NO. 10822

MAP AND GENERAL PLANS

ZONE E-1 (EAST) PROJECT NO. 40019

RUBY CREEK

PLATE R-3 OF 3

3583

" = 40' scale

18.56 sq in. X 1600 = 29,696 sq ft.
3.40 " " " " = 5,440 " "

2 | 35,136

17.568
8.8 height

154,598 cu. ft.

A = 1/3 b x h

5,440 sq ft.
8. Height

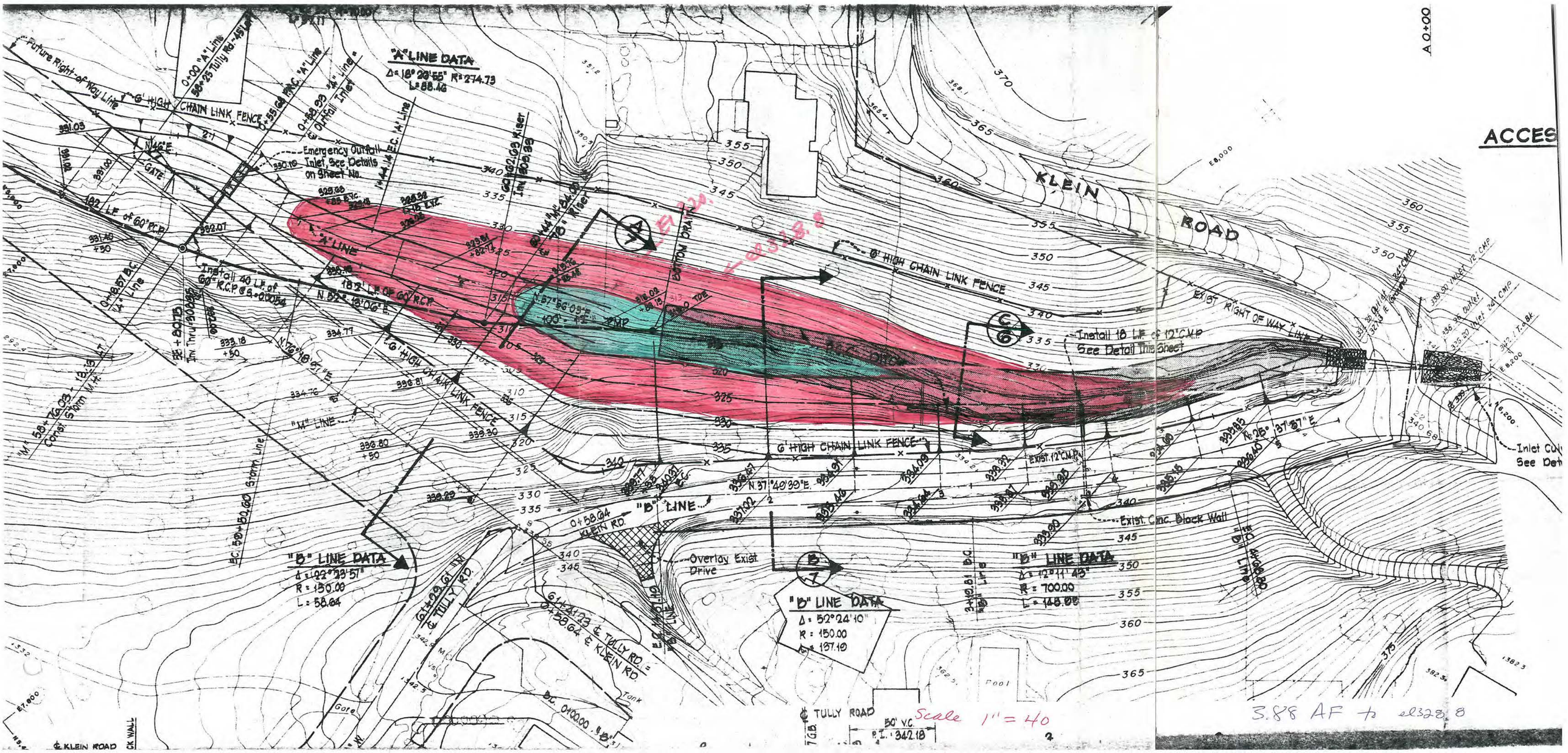
3 | 43,520

14.507 cu ft.

154,598
14,507

Total 169,105

3.88 Ac ft.


"A" LINE DATA
Δ = 18° 20' 55" R = 274.73
L = 88.46
"B" LINE DATA
Δ = 22° 23' 57"
R = 150.00
L = 58.64
"B" LINE DATA
Δ = 52° 24' 10"
R = 150.00
L = 137.10
"B" LINE DATA
Δ = 12° 11' 43"
R = 700.00
L = 148.82
KLEIN ROAD
TULLY ROAD
6' HIGH CHAIN LINK FENCE
Future Right-of-Way Line
Emergency Outfall Inlet, See Details on Sheet No.
Install 40 L.F. of 60" R.C.P.
Install 18 L.F. of 12" C.M.P.
See Detail This Sheet
Exist. Right of Way Line
Exist. Conc. Block Wall
Overlay Exist Drive
Exist. 12" C.M.P.
Inlet Col
See Det
Pool
Gate
Tank
Scale 1" = 40
3.88 AF to el328.8
ACCES

P-1 SAN CLAI VALLEY WATER DISTRICT, San , Cal ia

By WFC Date 27 FEB 80 Chkd. By _____ Date _____ Sheet No. _____ of _____

Subject RUBY CREEK $Q_{10\%}$ = 260 CFS Job No. _____

- VELOCITY CHECK -

72" RCP A = 28.27 IF FULL $V = \frac{260}{28.27} = 9.19$ '/s

USE ITTE n = .015 S = .00953 D_N = 3.7' V = 13 '/s

INV = 123.58

129.58 ∴ FLOWS FULL

STA 42-47 S = .0780 54" RCP.

$Q_{10\%}$ = 230 CFS D_n = 2.2 V = 30 '/s

p. 424-425 CONC. PIPE HANDBOOK

WITH ABOVE VELOCITY THERE SHOULD BE NO ABRASION PROBLEMS.

MAIN UPSTREAM SOIL TYPE ACE2 ALTAMONT CLAY

OTHERS SdD & ACE

RUBY CRK. RETENTION BASIN
add another 20' for Tully Rd.

330'

33,840

31,616

29,392

27,168

24,944

325'

22,720

20,432

18,140

15,856

13,568

320'

11,128

9,872

8,374

6,921

5,468

315'

4016

TOTAL = 283,611 cu. ft.± or 6.51 Ac. ft.±

ELEV.	cu. ft.±	Ac. ft.±	
330			330
	283,611	6.51	
	249,771	5.73	
	218,155	5.01	
	188,763	4.33	
325	161,595	3.71	325
	154,651	3.55	
	131,931	2.62	
	93,499	2.15	
	75,355	1.73	
320	59,499	1.37	320
	45,931	1.05	
	34,651	.80	
	24,779	.57	
	16,405	.38	
315	9,484	.22	315
	4,016	.09	

AGENDA

2d. Mr. Lawrie reviewed staff proposal to retain an independent appraiser, Ruby Creek Sediment Control Basin, Project 4019. An explanation is contained in the attached agenda memorandum.

AUTH INDEPENDENT APPRAISER RUBY CRK SED CONTRL BASIN PROJ 4019

Following a brief discussion, it was moved by Director Dullea, seconded by Director Sanchez and carried that the expediture be authorized. Directors Ferraro and Pfeiffer voted no. Chairman Peralta was absent.

2e. Mr. Lawrie reviewed the proposed acceptance of an indenture from Southern Pacific Transportation Company, Parcel 5, Prospect Creek, Project 2036. An explanation is contained in the attached agenda memorandum.

APRVD INDENTURE SO PAC TRANS CO PROSPECT CRK PROJ 2036

Following a brief discussion, it was moved by Director Sanchez, seconded by Director Dullea and unanimously carried that the Chairman be authorized to execute the Indenture. Chairman Peralta was absent.

3. The Board considered the nominations to Flood Control Zone Advisory Committees. An explanation is contained in the attached agenda memorandum.

Director Ferraro stated that he is nominating Norma Pezzini as At Large Representative for the East Zone Advisory Committee.

It was moved by Director Dullea, seconded by Director Sapp and unanimously carried that the Nominees be appointed. Chairman Peralta was absent.

4. The Board considered the proposed Certificate of Appreciation for retiring employee James K. Stallsworth. An explanation is contained in the attached agenda memorandum.

AUTH CERT OF APPREC J K STALLSWORTH

It was moved by Director Dullea, seconded by Director Sapp and unanimously carried that a certificate of appreciation for James K. Stallsworth recognizing and expressing the Board's appreciation for faithful public service be authorized. Chairman Peralta was absent.

5a. The Board considered the attached Report documenting the nature and extent of saltwater intrusion in Santa Clara County in the Baylands Area with recommendations for the future, Saltwater Intrusion Investigation, Project 9104. An explanation is contained in the attached agenda memorandum.

RPT RE SALTWATER INTRUSION PROJ 9104

Mr. David Gill, Water Supply Manager, stated that the attached report is a basis for a grant application of $220,100 to locate and correct faulty wells.

A lengthy discussion ensued regarding how the wells will be found and then sealed.

AGENDA MEMORANDUM

AGENDA DATE 10/14/80 ITEM NO. _____ UNIT Design and Construction

ZONE E PROJECT NO. 4019 NAME Ruby Creek

SUBJECT: Authorization to Retain Independent Appraiser

EXPLANATION:

There are six ownerships that must be appraised for the Ruby Creek Sediment Basin Project adjacent to Klein Road in the County of Santa Clara.

Staff recommends that an independent appraiser be retained to appraise these parcels prior to commencing negotiations at a cost not to exceed $3,500.00. If Kaufman and Broad reaches a settlement with any of these property owners prior to the appraisal being made, the appraisal cost will be less. It will be recalled that, under an agreement between the District and Kaufman and Broad, the developer has agreed to reimburse the District for appraisal costs as part of the acquisition cost.

RECOMMENDATION: That the expenditure be authorized.

MINUTES
SANTA CLARA VALLEY WATER DISTRICT
BOARD OF DIRECTORS MEETING
September 16, 1980

(Paragraph numbers coincide with agenda item numbers)

A regular meeting of the Board of Directors of Santa Clara Valley Water District was held in the Board Room of the District Administration Building, 5750 Almaden Expressway, San Jose, California, at 9:00 a.m. on September 16, 1980. — REG MTG

1. Board members in attendance were M. E. Dullea, A. T. Pfeiffer, S. Sanchez, and L. Peralta, Chairman presiding, constituting a quorum of the Board. Directors Ferraro, Lenihan and Sapp arrived as noted below. — PRESENT BOARD

Staff members in attendance were S. A. Ekstrand, R. R. Esau, J. W. Garrett, D. K. Gill, A. T. Henley, G. S. Korbay, J. T. O'Halloran and C. G. Wilson. — STAFF

2. It was moved by Director Dullea, seconded by Director Sanchez, and unanimously carried that the Minutes of August 19 and 26, 1980 be approved as written. Directors Ferraro, Lenihan and Sapp were absent. — MIN APPRVD

3. Mr. Donald Lawrie, Supervising Real Estate Agent, reviewed the proposed Right of Way Agreement with Earl L. and Lois M. Osborn, owners of record, and Charles and Norma Culberson, contract purchasers, Parcel 49, Almaden Valley Pipeline, Project 9230. An explanation is contained in the attached agenda memorandum. — APPRVD R/W AGMT E L & L M OSBORN, & C & N CULBERSON ALMADEN VLY P/L PROJ 9230

Following a brief discussion, it was moved by Director Pfeiffer, seconded by Director Sanchez and unanimously carried that the Chairman be authorized to execute the above-described Agreement. Directors Ferraro, Lenihan and Sapp were absent.

Directors Ferraro, Lenihan and Sapp arrived during discussion of the following item. — ARRIVED

Mr. R. R. Esau and A. T. Henley left the meeting at the end of discussion of the following item. — LEFT MTG

4. Mr. Lawrie reviewed the request by Kaufman and Broad that the District assume Ruby Creek acquisition responsibility. Ruby Creek Sediment Control Facility, Project 4019. An explanation is contained in the attached agenda memorandum. — KAUFMAN & BROAD REQUEST

Mr. Lawrie stated that Kaufman and Broad has been in the process of negotiating under the terms of the Agreement the District entered into a few weeks ago. They have not had much success. The attached letter outlines the progress of their negotiating attempts. Mr. Lawrie commented that there was one new development since that letter. A letter was received from a Mr. Tallett who is an attorney representing the Glick interest. As a result of that letter, staff feels that Kaufman and Broad could continue negotiation for acquisition of the Glick interest.

RUBY CRK
SED
CONTRL
FAC
PROJ 4019

Mr. Anthony Varni, Kaufman and Broad attorney, stated that Mr. Tallett suggested that Kaufman and Broad acquire the Glick parcel in its entirety, instead of just the needed right of way. Mr. Varni stated that Kaufman and Broad had no objection if the property could be acquired at its current market value. Mr. Varni encouraged the Board to authorize staff's recommendation to proceed with the project acquisition with the understanding that Kaufman and Broad will meet with Mr. Tallett and try to negotiate to purchase the entire Glick property.

APPEAR
A VARNI
ATTY

Mr. John O'Halloran, General Manager, pointed out that staff was not asking for authorization of eminent domain. These are just the necessary steps to get appraisals and begin negotiations with the property owners. If these attempts are unsuccessful, staff will then come back to the Board for authorization of eminent domain.

Mr. George Korbay, Design and Construction Manager, referred to the attached letters dated August 18, 1980 from Mr. David G. Corliss of the Kaufman and Broad staff. In the letter Mr. Corliss outlines the steps that Kaufman and Broad have taken in contacting and attempting to negotiate with the individual property owners.

LTR FROM
D G CORLISS
KAUFMAN &
BROAD

A discussion ensued.

Director Sanchez asked Mr. Varni if the Directors could be assured that all the property owners have been contacted with a bona fide offer. Mr. Varni was not sure and stated that Mr. Corliss would be able to answer that question but he had not arrived as yet.

Mr. Bruce Tichinin, attorney for Mrs. Hazel Hall and Mr. Hugh King, stated that his clients have been contacted and an offer made. Mr. Tichinin stated that staff is asking the Board to authorize the purchase of land not only for flood control purposes but for road purposes in cooperation with the City of San Jose. Mr. Tichinin questioned the authority of the Board to take this action.

APPEAR
B TICHININ
ATTY

A discussion followed.

Mr. Albert T. Henley, General Counsel, stated that whatever agreement the District enters into with the City of San Jose will have his legal approval before it's brought before the Board. All of Mr. Tichinin's questions will be answered before any condemnation proceeding takes place.

Mr. David Corliss addressed the Board. Mr. Corliss stated that since the August 18, 1980 letter he has contacted each of the individual property owners a minimum of two more times. Three of the owners are represented by attorneys whom Mr. Corliss has contacted by letter and telephone calls. Mr. Bibby has not responded to his registered letter. Mr. Corliss assured the Broad that each of the property owners has received an offer by registered letter. The last one he sent out was August 20, 1980. Mr. Corliss stated that escrow has opened on parcels 1 and 5. Mr. Corliss commented that Kaufman and Broad hired the firm of Darwin Lee for the appraisal work. It was Kaufman and Broad's intent to offer the property owners the appraised value plus fifty percent.

APPEAR
D CORLISS
KAUFMAN &
BROAD

A lengthy discussion followed.

Mr. John Tallett, attorney for Mrs. Glick referred to the letter he wrote to Kaufman and Board regarding the purchase of the Glick property. Mr.Tallett stated that Mrs. Glick opposes any acquisition of her property. It's his legal opinion that the Broad does not have the authority to take Mrs. Glick's property for the benefit of Kaufman and Broad. Because the acquisition of a part of the Glick property would severely damage the remainder, Mrs. Glick is considering the possibility of selling the entire parcel to Kaufman and Broad.

APPEAR
J TALLETT
ATTY

Mr. Glen Roberts, City of San Jose Public Works Department, stated that the alignment of Tully Road and Klein Road is in the official adopted plan line as represented by the City general plan document.

APPEAR
G ROBERTS
CITY OF
S JOSE DPW

It was moved by Director Dullea, seconded by Director Sanchez and carried that staff be authorized to proceed with project acquisition and to develop an agreement with the City of San Jose, with the exception of the Glick property. Directors Ferraro and Pfeiffer voted no.

AUTH STAFF
PROCEED
W/ACQUISI-
TION

12. Mr. Lawrie reviewed the proposed six resolutions authorizing eminent domain against Salvadore Viviano, et ux., Albert E. Hixon, et ux., John Rodarte, et ux., Pierino Gavello, et ux., Valley Title Company, Albert R. Boyarsky, et ux., Parcels 46, 47, 48, 51, 57, Almaden Valley Pipeline, Project 9230. An explanation is contained in the attached agenda memorandum.

APPRVD EM
DOMAIN
ACTION
S VIVIANO,
A E HIXON,
J RODARTE
P GAVELLO
A
BOYARSKY

Mr. Lawrie asked that one parcel, Valley Title Company, be removed from today's action because it appears that a settlement will be reached in the near future.

Director Dullea asked if all the property owners have been contacted.

ALMADEN
VLY P/L
PROJ 9230

Mr. Lawrie assured the Board that all owners have been contacted a number of times.

Mr. Lawrie explained that staff has performed the appraisals and when the condemnation action is filed that will establish a valuation date at which time staff will update the appraisals. In the future, if necessary, the District will hire independent appraisers. If their appraisals are higher than staff's, they will be brought back before the Board.

AGENDA MEMORANDUM

AGENDA DATE 9/16/80 ITEM NO. UNIT Design & Construction

ZONE E PROJECT NO. 4019 NAME Ruby Creek Sediment Control Facility

SUBJECT: Request by Kaufman & Broad that District Assume Ruby Creek Acquisition Responsibility

EXPLANATION:

On May 13, 1980, the Board of Directors approved an agreement with Kaufman & Broad which provides that company will build flood control facilities on Ruby Creek. Company was obligated to use all reasonable means to secure property rights, with the understanding that, if unsuccessful, District would "use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights".

The attached letter dated August 18, 1980 from Kaufman & Broad outlines the status of their negotiations with the owners of the seven properties involved in the Ruby Creek Sediment Control Facility. When the letter was written, agreement had been reached with one owner. Since then, a second owner has settled.

Although the letter suggests condemnation proceedings, such action cannot be undertaken without proper preliminary actions. With Board concurrence, staff will proceed with appropriate appraisal and acquisition steps. If offers are rejected, a request for a Condemnation Resolution will be submitted later. City of San Jose staff has indicated a desire to develop a cooperative agreement with the District which would permit condemnation of rights in Tully and Klein Roads for street purposes.

RECOMMENDATION: That staff be authorized to proceed with project acquisition and develop an agreement with the City of San Jose.

Kaufman and Broad of Northern California, Inc.
6379 Clark Avenue • Mailing: P.O. Box 2755
Dublin, California 94566
(415) 829-4500

Hand Del 8/18 orig EHS
Same to WFC
JLR

247

Kaufman & Broad

August 18, 1980

SANTA CLARA
VALLEY WATER DISTRICT
'80 AUG 18 PM 1:41

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California

Attention: Mr. Bill Carlson,
Director of Engineering

Subject: Acquisition of Individual Parcels for
Ruby Creek Improvements

Dear Bill:

The following will be a brief up-date for your office in regard as to what steps have been taken over the last month concerning contacting individual property owners for the acquisition of specific parcels to allow Ruby Creek improvements that are needed for our subdivision. You will also find a copy of an appraisal that was done last month. Upon my contacting the individual property owners the approach has been to offer them 50% above the appraisal figure for what the appraiser feels their property should be valued at. Needless to say there has been some positive as well as negative reations from the individual property owners. The following is our contacts to date concerning the above.

Parcel #1 in 17 owned by Marie Inderbitzen - I have met with Mrs. Inderbitzen a couple of time and most recently with some advisors of hers concerning acquisition of her property. It would appear that she is positive to consummating a sale. She is waiting for me to get back to her at this date with a new legal description based on the water district wanting less land in Parcel 1. Darwin Lee is evaluating that and sending me a new appraisal figure based on less square footage.

Parcel #2 owned by Department of Veterans Affairs/Mr. R. Bibby - Over the last thirty days I have tried on seven different occasions to reach Mr. Bibby. I have left cards in his mail box and letters to his attention. I have called him during the day and also during the evening and have not found him at to answer the phone. I know he has received my letters and my cards because one of the other home owners, Mr. and Mrs. Kampen, have advised me that he has talked to them to see what we are offering. My next step will be to send him a registered letter advising what we are offering in regards to his land. I can only assume that he is not interested at this point.

Parcel #3 owned by Jean Glick - I first approached Mrs. Glick on July 24, 1980 and discussed the above with her mother-in-law. Mrs. Glick was out of town for a week. I explained what we are prepared to offer on the property and she felt it was totally unrealistic and would relay the information to her daughter-in-law. She felt there would be no movement unless we were willing to double our offer. This parcel also has been decreased further for the Valley Water District needs for the basin. Again, I am waiting to get back to the Glicks regarding a new purchase price based on Darwin Lee's new appraisal figure for less footage. I feel at this point there is no movement here with the Glicks.

Parcel #4, 5A, 18 and 19 owned by Bill and Maxine Ellis - The Ellises are represented by a local realtor, Marie Leigh of New Directions Real Estate Service, San Jose. I have met with her on several occasions. They have had "curb" appraisal done by MAI appraisers which would indicate to them that this lot is completely buildable for a single-family residence, and based on that being a single-family lot, they feel the price that we have offered is unrealistic and should be double our offer. We mentioned this to our appraiser Darwin Lee. Darwin Lee feels maybe, there is a very slight chance the lot is buildable but the expense in retaining walls, septic tanks on a hillside would be so unrealistic financially that this lot in essence is not buildable. There is no movement to date although it is my intent, upon Darwin Lee getting back to me, in writing, that I will get back to Mrs. Ellis and her representative.

Parcel #6, 14 and 15 owned by Walter and Thais Kampfen - Met with them on four different occasions during the last month. They are definitely interested in selling their property.. In fact, we have opened escrow to purchase their property. The only thing that is holding the close up to this point is, again the Santa Clara Water District has indicated a new legal description and Ruby Creek retention basin needs less square footage off of Parcel 6. Darwin Lee, again, is getting back to me concerning a new appraisal price based on less square footage for their land. Upon receiving that and getting an approval by the owners I feel a close will happen shortly.

Parcel #7, 8, 9, 10, 16 and 21 owned by Kenneth and Hazel Hall - I have called the Halls and gone by on a number of occasions the past month and have not been able to find them at home. They are represented by an attorney in Gilroy and I have contacted him and am having a difficult time having him return my calls. Mrs. Hall has made her position very clear that no sum could buy her property. I feel there isn't any movement here although my next step will be to send her a registered letter with a copy to her attorney.

Parcel #11, 12, 13 and 20 owned by Herbert King - After a number of attempts, I finally talked to Mr. King's wife. On July 30th I told her our intent and a price we were willing to pay for the land. She was very non-committal and told me that she would pass it on to her husband. I have not heard from him and have left messages in mail box. He has not contacted me. I am assuming that he is not interested, again, as a last resort I will send him a registered letter.

You can see from the above that we are making every attempt to contact each and every one of the property owners. We would like to ask the Santa Clara Valley Water District to put us on their agenda for the latter part of September so this matter can come up for condemnation proceedings. We feel, in the next ten to twelve days we will have completely exhausted all attempts on each and every one of these home owners and we will know clearly who is willing to go along with what we feel is a realistic price and who is not. Action will have to be taken at that point, thus being put on the agenda the latter part of September. Feel free to contact me if you have any questions in this regard. We look forward to a speedy proceeding considering the time and effort that has been put in to date. We look forward to hearing from you.

Very truly yours,

KAUFMAN AND BROAD
OF NORTHERN CALIFORNIA, INC.

David G. Corliss
Forward Planner

cc: R. Miller
James T. Harper
HMH Engineers, San Jose

John Richardson
Santa Clara Valley Water District, San Jose

4. Mr. George Korbay, Design and Construction Manager, reviewed the proposed agreement with Kaufman & Broad of Northern California, Inc., for construction of Ruby Creek and related facilities. An explanation is contained in the attached agenda memorandum and proposed agreement. Mr. Korbay stated that the Board's last action on the item was to grant concept approval for staff to formulate an agreement with a potential developer of the Ruby Creek Facility. The attached agreement with Kaufman & Broad is a result of that direction. Staff is recommending approval of the attached agreement.

AGMT
KAUFMAN &
BROAD
RUBY CRK

Director Sanchez asked Mr. Albert T. Henley, General Counsel, that if the Board determined that the Developer did not, in good faith, make a reasonable effort to acquire by negotiation and agreement the property rights with the affected landowners, would the proposed agreement be null and void.

Mr. Henley replied that if the Board made a reasonable objection to the Developer's effort and the Developer refused to consider redoing that effort then the agreement would be deemed breached by the Developer and of no further effect.

A discussion followed.

Mr. Bruce Tichinin, attorney for some of the affected landowners, addressed the Board.

APPEAR
B TICHININ
ATTY

Mr. Tichinin stated that on several occasions he has inadvertently misstated Mr. Henley's position and to avoid it happening again he asked Mr. Henley what, if anything, does he perceive to be the legal consequence if the vote with respect to the proposed agreement remains the same as it was the last time the issue was before the Board and the Board did not have the two-thirds majority required by law to institute eminent domain proceedings.

Mr. Henley stated that it was his intention to inform the Board on this matter and , therefore, is prepared to answer the question if theChairman requests him to do so. Chairman Peralta so requested. Mr. Henley stated that if the Board approves the proposed agreement by less than a five/sevenths vote, that the balance of the Board can vote any way they choose to if and when a resolution is required for eminent domain proceedings. Mr. Henley further stated that he sees no illegality nor anything beyond the powers of this Board in entering into the proposed agreement by less than a five/sevenths vote.

A discussion ensued regarding whether or not the wording of the agreement should be changed to avoid any future legal problems.

Mr. Tichinin suggested to the Board that he feels if the Board would vote to install the facility on the Developer's property that the Developer would work with the District ; therefore the District would have the necessary facility, the citizens would be happy and the Developer, the District and the citizens would all be working together; that additionally, it would be appropriate for the Board to consider his suggestion since at the last vote the Board did not have the five/sevenths vote necessary for eminent domain proceeding.

A discussion followed on whether the City has definitely set the alignment of Tully Road. TULLY RD ALIGNMENT

Mrs. Hazel Hall, affected landowner, stated that the moving of the alignment of Tully Road would only affect two developers. Mrs. Hall stated that if the City Council was aware of the fact that the facility was going to be on the developer's property then there was a good possibility that they would move the alignment of Tully Road. APPEAR HAZEL HALL

Mr. James Harper, H. M. H. Civil Engineers, representing Kaufman & Broad, stated that he feels the Board in fact has the jurisdiction and authority to make the decision on whether or not Kaufman & Broad has made a fair and equitable effort to negotiate with the landowners. He feels the appropriate steps that Kaufman and Broad should take, and report back to the Board, would be (1) an appraisal by a non-interested party, (2) a fair market value established on the property, (3) an offer by the Developer, (4) a response to the offer by the property owners, and (5) depending on the response of the owners, report to the staff or the Board the differences and what are possible alternatives. APPEAR J HARPER HMH CV ENG

Mr. Tichinin stated that he represents Mrs. Hall, Mr. King and Mr. and Mrs. Biby. Mr. Tichinin does not currently represent Mrs. Glick. Mr. Tichinin commented that the Developer has approached his clients regarding their selling their property. Mr. Tichinin commented further that his clients have no intention of selling their property and in his opinion the Board does not have the right to condemn their property for the proposed purpose. That is his clients' position and it will not change with any future offers.

Mr. Henley read aloud to the Board a suggested change in the language of the proposed agreement. Paragraph 2 would read:

"2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights."

A discussion followed.

Director Ferraro moved to table the item.

The motion died for a lack of a second.

It was moved by Director Lenihan, seconded by Director Sanchez and carried by a roll call vote that the Chairman be authorized to execute the agreement as it has been revised by Counsel. Directors Ferraro and Pfeiffer voted no. APRVD AGMT AS REVISED

10. The Board considered the oral report by special counsel regarding Coyote Cabin cases.

AGENDA MEMORANDUM #80-139 163

AGENDA DATE 5/13/80 ITEM NO. UNIT Design & Construction

ZONE E PROJECT NO. NAME Ruby Creek

SUBJECT: Agreement with Kaufman & Broad of Northern California Inc. for Construction of Ruby Creek and Related Facilities.

EXPLANATION:

Kaufman & Broad has executed a proposed form of agreement of which a copy is attached for review. The draft was prepared by District Counsel.

RECOMMENDATION: That the Chairman be authorized to execute the agreement.

A 40439
184

File: 4019AA
Ruby Creek

AGREEMENT

SANTA CLARA VALLEY WATER DISTRICT, a local public agency of the State of California, hereinafter "District", and

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC., a California Corporation, hereinafter "Company",

AGREE this _____ day of _____, 1980 as follows:

RECITALS:

A. Company is preparing to build certain flood control and related facilities (hereinafter "the project") upon certain lands. The project is shown on Exhibit A, so marked and hereunto attached.

B. Upon completion of construction of the project in accordance with District approved plans and specifications, the same will become the property of District and will be put to a lawful District purpose, to wit, as a sediment control facility together with all necessary appurtenances.

AGREEMENT:

1. Upon receipt of necessary approvals of governmental agencies having jurisdiction, Company will construct, or secure construction of, the project in strict accordance with District approved plans and specifications therefor. Company will in good faith use all reasonable means to acquire by negotiation and agreement the property rights necessary for such construction. Company will inform District of all efforts made in connection with such acquisition.

2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights.

3. Company will pay, promptly upon receipt from District of itemized invoices therefor, all costs of such acquisition incurred by District.

4. Costs so to be paid by Company shall include legal, engineering, appraisal, and administrative costs reasonably required by such acquisition and actually incurred therein.

4019AA

5. Promptly upon completion of construction of the project pursuant hereto, all right and property therein and to the said property rights therefor shall be granted and conveyed by Company to District.

WITNESS our hands the day and year first above written.

SANTA CLARA VALLEY WATER DISTRICT

By_____
Chairman of the Board of Directors
"District"

ATTEST: SUSAN A. EKSTRAND

_____
Clerk of the Board of Directors

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC.

By R. Inell 5/8/80

By_____

"Company"

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AGMT
KAUFMAN &
BROAD
RUBY CRK

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A discussion followed.

Mr. Bruce Tichinin, attorney for some of the affected landowners, addressed the Board.

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B TICHININ
ATTY

Mr. Tichinin stated that on several occasions he has inadvertently misstated Mr. Henley's position and to avoid it happening again he asked Mr. Henley what, if anything, does he perceive to be the legal consequence if the vote with respect to the proposed agreement remains the same as it was the last time the issue was before the Board and the Board did not have the two-thirds majority required by law to institute eminent domain proceedings.

Mr. Henley stated that it was his intention to inform the Board on this matter and , therefore, is prepared to answer the question if theChairman requests him to do so. Chairman Peralta so requested. Mr. Henley stated that if the Board approves the proposed agreement by less than a five/sevenths vote, that the balance of the Board can vote any way they choose to if and when a resolution is required for eminent domain proceedings. Mr. Henley further stated that he sees no illegality nor anything beyond the powers of this Board in entering into the proposed agreement by less than a five/sevenths vote.

A discussion ensued regarding whether or not the wording of the agreement should be changed to avoid any future legal problems.

Mr. Tichinin suggested to the Board that he feels if the Board would vote to install the facility on the Developer's property that the Developer would work with the District ; therefore the District would have the necessary facility, the citizens would be happy and the Developer, the District and the citizens would all be working together; that additionally, it would be appropriate for the Board to consider his suggestion since at the last vote the Board did not have the five/sevenths vote necessary for eminent domain proceeding.

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Mr. James Harper, H. M. H. Civil Engineers, representing Kaufman & Broad, stated that he feels the Board in fact has the jurisdiction and authority to make the decision on whether or not Kaufman & Broad has made a fair and equitable effort to negotiate with the landowners. He feels the appropriate steps that Kaufman and Broad should take, and report back to the Board, would be (1) an appraisal by a non-interested party, (2) a fair market value established on the property, (3) an offer by the Developer, (4) a response to the offer by the property owners, and (5) depending on the response of the owners, report to the staff or the Board the differences and what are possible alternatives. APPEAR J HARPER HMH CV ENG

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Mr. Henley read aloud to the Board a suggested change in the language of the proposed agreement. Paragraph 2 would read:

"2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights."

A discussion followed.

Director Ferraro moved to table the item.

The motion died for a lack of a second.

It was moved by Director Lenihan, seconded by Director Sanchez and carried by a roll call vote that the Chairman be authorized to execute the agreement as it has been revised by Counsel. Directors Ferraro and Pfeiffer voted no. APRVD AGMT AS REVISED

10. The Board considered the oral report by special counsel regarding Coyote Cabin cases.

AGENDA MEMORANDUM #A0439 153

AGENDA DATE 5/13/80 ITEM NO. UNIT Design & Construction

ZONE E PROJECT NO. NAME Ruby Creek

SUBJECT: Agreement with Kaufman & Broad of Northern California Inc. for Construction of Ruby Creek and Related Facilities.

EXPLANATION:

Kaufman & Broad has executed a proposed form of agreement of which a copy is attached for review. The draft was prepared by District Counsel.

RECOMMENDATION: That the Chairman be authorized to execute the agreement.

#A0439
154

File: 4019AA
Ruby Creek

AGREEMENT

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KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC., a California Corporation, hereinafter "Company",

AGREE this _____ day of _____, 1980 as follows:

RECITALS:

A. Company is preparing to build certain flood control and related facilities (hereinafter "the project") upon certain lands. The project is shown on Exhibit A, so marked and hereunto attached.

B. Upon completion of construction of the project in accordance with District approved plans and specifications, the same will become the property of District and will be put to a lawful District purpose, to wit, as a sediment control facility together with all necessary appurtenances.

AGREEMENT:

1. Upon receipt of necessary approvals of governmental agencies having jurisdiction, Company will construct, or secure construction of, the project in strict accordance with District approved plans and specifications therefor. Company will in good faith use all reasonable means to acquire by negotiation and agreement the property rights necessary for such construction. Company will inform District of all efforts made in connection with such acquisition.

2. If Company's effort at amicable settlement is unsuccessful, District will use all reasonable and legally available means, including consideration of condemnation, to acquire all such required property rights.

3. Company will pay, promptly upon receipt from District of itemized invoices therefor, all costs of such acquisition incurred by District.

4. Costs so to be paid by Company shall include legal, engineering, appraisal, and administrative costs reasonably required by such acquisition and actually incurred therein.

4019AA

5. Promptly upon completion of construction of the project pursuant hereto, all right and property therein and to the said property rights therefor shall be granted and conveyed by Company to District.

WITNESS our hands the day and year first above written.

SANTA CLARA VALLEY WATER DISTRICT

By_____
Chairman of the Board of Directors
"District"

ATTEST: SUSAN A. EKSTRAND

_____
Clerk of the Board of Directors

KAUFMAN & BROAD OF NORTHERN CALIFORNIA, INC.

By R. Inell 5/8/80

By_____

"Company"

It was moved by Director Ferraro, seconded by Director Lenihan and unanimously carried to authorize the Certificate of Appreciation in plaque form for Frances K. Bucknam, recognizing and expressing the Board's appreciation for faithful public service.

12a. The Board noted the attached letter dated April 10, 1980 from Ken Heimbecker, San Jose, regarding fishery rehabilitation of Stevens Creek and the reply by Director Sapp.

LTR FROM KEN HEIMBECKER STEVENS CRK

12b. The Board noted the attached letter dated April 18, 1980, from Ira J. Chrisman, President, Western Water Education Foundation.

LTR FROM I J CHRISMAN WESTERN WTR ED FOUND

12c. The Board noted the attached letter dated April 21, 1980 from Carlo S. Fowler, Orrick, Herrington, Rowley & Sutcliffe.

LTR FROM C S FOWLER ATTY

12d. The Board noted the attached letter dated April 21, 1980 from Robert G. Miller, Senior Vice President, Kaufman and Broad.

LTR FROM R G MILLER KAUFMAN & BROAD

12e. The Board considered the letter dated April 28, 1980 to Anthony B. Varni, attorney for Kaufman and Broad, from Bruce Tichinin, attorney for the landowners in the proposed Ruby Creek Sediment Control Basin area.

Director Sanchez asked if the statement that Mr. Tichinin made in his letter, regarding the fact that the California Eminent Domain Law (Code of Civil Procedure Section 1245.240), requires a two-thirds vote of all the members of the Board to undertake an eminent domain proceeding is true. Mr. Henley stated that this is the legal requirement if and when an eminent domain resolution comes before the Board.

A discussion followed on whether or not the landowners are willing to negotiate.

LTR FROM A B VARNI ATTY FOR KAUFMAN & BROAD FROM B TICHININ ATTY RUBY CRK SEDIMENT CONTROL BASIN

12f. The Board noted the attached letter dated April 24, 1980 from Gary Meltzer, Chairman Pro Tempore of the Santa Clara County Fish and Game Commission.

LTR FROM G MELTZER S CLARA CO FISH & GAME

Kaufman and Broad of Northern California, Inc.

6379 C... Avenue • Mailing: P.O. Box 2755
Dublin, California 94566
(415) 829-4500

4/25 Sim (LP)
Sim 240 MD
" 55
" 56

58

Kaufman & Broad

April 21, 1980

Ms Linda Peralta
Chairman of the Board
Santa Clara Water District
5750 Almaden Expressway
San Jose, California 95118

Dear Linda:

My sincere appreciation to you for your thoughtful consideration on the matter of the Ruby Creek retention basin. Certainly I realize the amount of pressure which you felt during the consideration of this matter.

I greatly regret that the feeling among the six neighbors involved is so intense. I honestly feel that the entire matter has been blown out of proportion and that the neighbors, in fact, do not realize that the ultimate structure will result in very little change to the existing area.

Thank you for your thoughtful consideration in this matter. You may be assured that this company will work very closely with your staff to bring about a facility which not only meets the requirements of the District, but which will be the least offensive in every way to the residents of the area.

With kindest regards,

KAUFMAN & BROAD
OF NORTHERN CALIFORNIA, INC.

Rob

Robert G. Miller
Senior Vice President

RGM:aw

cc: R. Bold

JAN TO PF & RS
GSK
ATH

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

April 28, 1980

Anthony B. Varni
Attorney at Law
22300 Foothill Boulevard
P.O. Box 570
Hayward, California 94543

Re: Santa Clara Valley Water District Retention Basin

Dear Mr. Varni:

Thank you for your letter of April 16th, 1980 requesting a statement of the "price, terms and conditions under which [my] clients will sell the right-of-way for the above rentention basin to Kaufman and Broad."

Inasmuch as California Eminent Domain Law (Code of Civil Procedure Section 1245.240 requires a 2/3rds vote of all the members of the Board of Directors of the Santa Clara Valley Water District to undertake an eminent domain proceeding, the failure of the Board members who favor taking my client's property to obtain the necessary 2/3 vote for the project at its last meeting would appear to indicate that the Board will not be authorizing eminent domain proceedings in the future.

As previously indicated, my clients have no voluntary desire to sell their property.

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: clients
Arthur T. Pfeiffer
Patrick T. Ferraro
Robert T. Sapp

3c. The Board considered the proposed Resolution Authorizing Conveyance of Interest in Real Property to the City of San Jose - Parcel Nos. 3023-73.01, 58.01, 36.01, 60.01, 36.02, 37.01, 31.02, 45.02, 41.02, 61.01, 64.01, 79.01, 67.01, 92.01, 85.01, 78.01, 63.01, 32.01, Ross Creek, Project 3023. An explanation is contained in the attached agenda memorandum.

AUTH CONVEY REAL PROP TO CITY OF S JOSE ROSS CRK PROJ 3023

It was moved by Director Sanchez, seconded by Director Dullea and unanimously carried that RESOLUTION NO. 80-32, AUTHORIZING CONVEYANCE OF INTEREST IN REAL PROPERTY TO THE CITY OF SAN JOSE, be adopted.

RES 80-32

4. Mr. George Korbay, Design and Construction Manager, reviewed the proposed construction of the Ruby Creek Flood Control Project by developers and the request that the District acquire the right of way. An explanation is contained in the attached agenda memorandum.

PROPOSED SEDIMENT CONTROL FAC SITE RUBY CRK

Mr. Korbay stated that two weeks ago the Board requested staff to display maps showing the location of the two potential sediment control facility sites. Mr. Korbay reviewed the maps.

Mr. Korbay stated that in 1973 our Planning Report stated that a sediment control facility in conjunction with a Tully Road embankment would be the proper way to build the facility. A question has arisen as to the alignment of Tully Road. Mr. Korbay noted that Mr. Joseph Bass, head of the City of San Jose, Department of Public Works, Transportation and Planning Agency, is at the Board meeting to report on the alignment of Tully Road. Mr. Korbay pointed out that the item before the Board is a request to begin negotiations with the developer to provide that the developers would install the entire facility. Negotiating an agreement precedes the actual securing of appraisals and contact with property owners to acquire the necessary property.

TULLY RD ALIGNMNT

A discussion ensued regarding possible grading of the two possible sites.

Mr. Joseph Bass, City of San Jose, Department of Public Works, Transportation and Planning Agency, reviewed some of the history of Tully Road, its alignments and the chronology of events that led to the current alignment.

APPEAR JOSEPH BASS CITY OF SAN JOSE PW DEPT

Mr. Bass reviewed three significant factors that determined the alignment of Tully Road. The first was the fact that prior to the update of the City of San Jose General Plan which took place in 1975, there was a significant number of residential units planned in the Evergreen area. There were approximately 40 to 42 thousand residential units planned, but because of transportation and financial limitations the San Jose City Council made changes in the General Plan and reduced the proposed residential units to 34 to 35 thousand. Mr. Bass explained how the various proposed roads in the area were planned, noting that when the General Plan was cut back to 34 to 35 thousand units the need for some of the proposed road disappeared. This changed the proposed alignment of Tully Road because of the change in the density of the area.

Mr. Bass stated that another factor in changing the alignment of Tully Road is that the proposed road is used as a border to define the difference in land use, a common practice in land use and transportation planning. A proposed City facility called Grossbeck Park is another factor in determining the alignment, because the City did not want to dissect the proposed park with a road.

Mr. Bass explained that until a road is constructed there are various reasons why the alignment of a proposed road changes, i.e., impact on neighborhoods, land use differences, densities. Also, various studies conducted during this time.

Director Sanchez stated he assumed that from what Mr. Bass just stated Tully Road is established as shown on the map he displayed.

Mr. Bass responded that it has definitely been established in that location for the last six years.

A discussion followed.

Mr. Korbay passed out a package of pertinent background information that he compiled at the request of Chairman Peralta.

Mr. Rob Miller, Kaufman & Broad, addressed the Board.

APPEAR ROB MILLER KAUFMAN & BROAD

Mr. Miller stated that Kaufman & Broad purchased the property in question with an approved tentative map. He further stated that the proposed subdivision was designed and approved four years after the alignment of Tully Road was set. The alignment of Tully Road was not moved in order to accommodate this or any other subdivision.

Director Sanchez asked whether the developers had at any time approached the affected landowners to work out an arrangement to purchase the property.

Mr. Anthony Varni, attorney for Kaufman & Broad, stated that he has talked to Mr. Bruce Tichinin, attorney for the property owners. Mr. Varni commented that from the conversation it is clear that it is not a question of price but that the property owners do not want the proposed sediment control facility on their property and that their land is not for sale.

APPEAR A VARNI ATTY FOR KAUFMAN & BROAD

A discussion ensued regarding who should approach the landowners to work out an agreement: the developer or the District.

Mr. Tichinin, attorney for the affected property owners, stated that the fair market value of his client's land, when the developer seeks it, will be the value of the lots that the developer would have lost if the proposed sediment control basin were constructed on the developer's site. Also, he stated that this means there is no economic interest to the developer favoring one site over the other. Mr. Tichinin felt it to be improper that the developer should profit by the use of the District's eminent domain powers.

BRUCE TICHININ ATTY FOR PROP OWNERS

Mr. Tichinin commented on various other aspects previously discussed.

A lengthy discussion followed.

Mrs. Pat Barfield, member of the East Flood Control Zone Advisory Committee and the East Valley Alliance, addressed the Board. Mrs. Barfield referred to a statement made by Mr. Tichinin regarding his assertion that public voting, as demonstrated in the recent local election, was in favor of landowner rights versus development rights. Mrs. Barfield stated that her group also feels the proposed facility should be built on the developer's property and not on private property.

APPEAR PAT BARFIELD

Mrs. Hazel Hall, neighboring property owner, thanked the Board for taking the time to visit the proposed sites. Mrs. Hall commented that she was confident that the decision that the Board will make today will be in the best interest of the District and the property owners. A discussion ensued on the proposed Tully Road alignment.

APPEAR HAZEL HALL PROP OWNER

Mrs. Biby, a property owner, addressed the Board. Mrs. Biby pointed out that at no time had any of the property owners tried to stop the development. The property owners have not objected to the proposed development and they understand the need for new homes and roads in the East side. However, Mrs. Biby stated that the property owners do not want their property taken for the proposed facility. Mrs. Biby discussed possible problems that might occur if the facility were built on the property owners' site without fences as proposed. Mrs. Biby stated that if the facility were built on the developer's property it could be totally fenced without any problems.

APPEAR MRS BIBY PROP OWNER

Mrs. Velma Million, 2830 Klein Road, San Jose, addressed the Board. Mrs. Million commented that she has been involved with the flood control problems in the East Valley for the past ten years and recognizes the importance of the proposed facility. Mrs. Million further stated that the property owners are not debating whether or not the facility is needed. They are aware of the need but concerned regarding the location. Mrs. Million expressed concern to preserve Ruby Creek in its natural state.

APPEAR VELMA MILLION

Following a lengthy discussion, it was moved by Director Lenihan, seconded by Director Dullea and carried by a roll call vote that the Board approve in concept that the facility be located adjacent to and in accordance with the location of Tully Road as establised by the City of San Jose and that negotiations between the developers and the affected property owners be encouraged and that preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board be directed. Directors Ferraro, Pfeiffer and Sapp voted no.

APROVD CONCEPT

Chairman Peralta declared a recess.

RECESS

Upon reconvening, the same Board members and staff were present.

5. The Board considered approval of Negative Declaration for Proposed Flood Control Measures on San Tomas Aquino Creek from 680 feet upstream of the confluence with Saratoga Creek to 125 feet downstream of Highway 101 Project No. 2019. An explanation is contained in the attached agenda memorandum.

APRVD NEG DEC FC MEASURES S TOMAS AQUINO CRK PROJ 2019

Dr. Bernard Goldner, Environmental Specialist, reported to the Board that the draft negative declaration has been circulated to all affected property owners, relevant governmental agencies and various environmental groups for their review and comments. During the three-week review period, only one comment was received and that was from the Santa Clara City Council approving and endorsing the District staff recommendation.

It was moved by Director Dullea, seconded by Director Sapp and unanimously carried that the Board approve the Negative Declaration.

AGENDA MEMORANDUM

AGENDA DATE 4/15/80 ~~4/1/80~~ ITEM NO. 4 UNIT Design and Construction

ZONE E PROJECT NO. NAME Ruby Creek

SUBJECT: Construction of Ruby Creek Flood Control Project by Developers and Request that District Acquire the Right of Way

EXPLANATION:

In accordance with the City of San Jose Evergreen Development Policy, a developer has been required to construct Ruby Creek from, and including, the sediment control facility to downstream of White Road as a condition of receiving approval of residential subdivisions. The City of San Jose will construct the reach between the end of this project and the existing Flint-Ruby Creek Channel within Lake Cunningham Park. Construction of the project is planned to begin this spring.

The developer has asked that the District acquire the necessary right of way (see attached letter) at developer's expense. Staff believes that this is an appropriate request and staff will be able to handle the work. It is proposed that a reimbursement agreement be formulated and returned to the Board for approval.

An EIR for the subdivision, prepared by the City, also described the Ruby Creek Flood Control Project. District staff reviewed the EIR in July 1977 and made no substantive or adverse comment. In a more recent review of the detailed flood control project plans, District staff made several suggestions to the engineer to mitigate potential aesthetic and geotechnical impacts.

Staff has been contacted by persons residing in the vicinity of the proposed sediment basin who have expressed concern on its proposed location. A meeting was held between these residents and representatives of the developer. District staff were in attendance. Also, an exchange of correspondence has taken place between Mr. Henley and Mr. Bruce Tichinin, an attorney retained by the residents. The meeting and the correspondence indicate that the residents would like to see the sediment control facility relocated off their property. Location of this basin was first tied to the alignment of future Tully Road in the adopted 1970 Ruby Creek Engineer's Report. Following the establishment of the final alignment of Tully Road by the City of San Jose, the staff confirmed the proposed location of the sediment basin by letter in August 1977 to representatives of the developer. Since that time they have designed their housing project and the Ruby Creek project with this sediment basin location. Staff has reexamined the location of this basin relative to several other sites and recommends that the basin be located as proposed.

(CONTINUED FROM 4/1/80)

4/15/80 The Board approved in concept that the facility be located adjacent to and in accordance with the location of Tully Road as established by the City of San Jose and that negotiations between the developers and the affected property owners be encouraged and that preparation of a reimbursement agreement with project sponsors for subseque consideration by the Board be directed. DM

RECOMMENDATION: ~~Approve in concept the request that the District obtain needed right of way for the project and direct preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board.~~

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HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

January 16, 1980
Job 206-76-3

Mr. Don Lawrie
Real Estate Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, Ca. 95118

Reference: Ruby Creek

Dear Mr. Lawrie:

Our client, Kaufman and Broad, has requested that we advise you that they would be interested in pursuing negotiations with the Santa Clara Valley Water District to prepare necessary appraisal reports and pursue required property acquistion for the proposed Ruby Creek retention basin. It was our understanding at our meeting on Wednesday, January 9, that it would be necessary for you to receive authorization from your Board to pursue the appraisal and acquisition function and further that the District would charge a fee for performance of those functions.

We respectfully request on behalf of Kaufman and Broad that you make the necessary request to your Board at your earliest convenience for authorization to pursue the appraisal and property acquisition functions for implementation of the Ruby Creek improvement project. Please direct correspondence to the attention of Mr. Rob Miller at Kaufman and Broad, 6379 Clark Avenue, Dublin, Ca. 94566, phone number 829-4500, for particulars.

Preliminary title reports of the properties that will be affected by the retention basin have been issued by First American Title Company of San Jose. Two preliminary copies of a record of survey of the affected properties are enclosed for your use.

Should you have any questions, do not hesitate to call.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/vt

CC: Rob Miller

'80 JAN 18 PM 2:37
VALLEY WATER DISTRICT
SANTA CLARA

Memorandum

Carlsen 250

TO	John Richardson	FROM	Bernie Goldner
SUBJECT	Ruby Creek Flood Control Project	DATE	March 14, 1980

The following is my assessment of the impacts of locating the sediment control basin of the Ruby Creek Flood Control Project at three potential sites. The sites, shown on the accompanying map, are: (1) Site A, proposed by HMH, Inc. and approved by the District in 1977 (see attached letter), (2) Site B, downstream of Site A originally designated in the District's Report on Proposed Improvements on Flint and Ruby Creeks and, (3) Site C, located along Ruby Creek immediately upstream of Klein Road, suggested recently by staff as an alternative to the other two sites.

It is my understanding that all three sites will function adequately from an engineering and technical standpoint. According to Bob Tepel, there are no significant geological differences between the three sites that would give preference to one site over the other.

Win Stiles field surveyed the sites for biological impacts. He concluded that locating the basin at Site C would have the greatest impact since this reach of the creek does have some trees and wildlife habitat that could be removed by construction, grading or operation of the basin. Even if the basin were to be built at the site, however, the biological impact could not be considered significant since the riparian plant community is not particularly rich. Riparian vegetation found along the creek at Site A or B is insignificant and would tend to naturally revegetate following excavation or placement of fill.

As regards visual impacts, although more difficult to access objectively compared to other types of impacts, it appears that location at Site B would result in the greatest impact since the basin would be surrounded by many homes in the proposed subdivision. The basin in this location would have to be excavated substantially below grade, and include a perimeter levee and a downstream embankment similiar in design to the Flint Creek sediment basin. Even with landscaping around the periphery of the basin at this site, the basin would be quite visually obtrusive, in my opinion. Location of the basin at either Site A or C would involve far less excavation and grading since the creek is deeply incised at these locations. Although several homes are located at elevations above Site A and C so that they would look down into the basin, far fewer homeowners would be visually impacted at these sites. The visual impact at Site C would be more severe than at Site A because the setting is more pastoral in character.

The concrete channel required along the creek bottom at Site A would be visible initially but only until silt filled in the channel. The proposed chain link fence around the perimeter of the basin would be a visually prominent feature and therefore, I suggest that if a fence is necessary, then rustic split rail fence be substituted or the fence be eliminated entirely if agreement between the homeowners and HMH, Inc. can be reached on this issue. Another recommendation to mitigate visual impacts is to substitute gabions for sack riprap at the inlet works and wherever else sack riprap is required. The fill slope should be seeded with a quick germinating

groundcover to mitigate the short-term visual impacts of bare earth as well as provide erosion protection. In time, the slope will revegetate and blend in with the adjacent terrain.

The issue has been raised as to whether it is appropriate for the District to prepare a subsequent EIR under Section 15067 of the State EIR Guidelines since new information on the design of the basin at Site A has become available since approval of the City's 1977 EIR. The decision regarding a subsequent EIR basically rests on whether the recent design changes for the basin will result in significant new impacts not previously considered. These changes consist of the concrete channel bottom and the fill slope. As discussed above, I do not believe that these changes can be judged as significant provided that the mitigative measures proposed are implemented. While it is true that a number of homeowners adjacent to Site A strongly object to construction of the basin at this location primarily on the basis that portions of their property must be taken, I do not believe that these objections constitutes a significant impact in itself. Section 15084 of the State EIR Guidelines and case law have established that public controversy over a project must be based on a difference of opinion involving substantial evidence such as a disagreement between qualified experts as to whether a project would result in a hazard to the public.

A related concern expressed by some of the homeowners is loss in property value resulting from location of the basin adjacent to their homes. If the visual impacts are mitigated, I do not believe the value of their homes will be adversely affected by the basin.

Consequently, based on my assessment of the impacts of the proposed project at Site A, I do not find that a subsequent EIR is required since I have not been able to identify any impacts that cannot be mitigated to acceptable levels.

ORIGINAL SIGNED BY

Environmental Specialist
Project Development Branch

cc: B. Goldner
W. Stiles
W. Carlsen
A. Henley

BHG:mw

Attachment

3/11 cc: BHG JLR GSK cc: DAL

262

LAW OFFICES OF
TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

March 10, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Control Facility; City of San Jose Subdivision, File No T78-1-7

Dear Mr. Henley:

Thank you for your letter of March 6, 1980.

If the Water District cannot dictate the location of its facility, then the facility sounds more like a private one than the public one described in your letter of February 15th. If it is a private one, of course, then, as you have previously acknowledged, the District has no authority to condem to bring about the existence of the facility.

Even a facility cannot serve two masters. And I would say only the true masters of the facility can dictate its location. No?

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F. Carlson
Donald A. Lawrie

James T. Harper
Gary Schoennauer

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

March 6, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Mr. Tichinin:

Re: Ruby Creek Sediment Control Facility; City of San Jose Subdivision, File No. T78-1-7

Thanks for your letter of February 21, 1980. I had hoped to get back to you before now but the matter remains under review here.

As an intellectual exercise I have considered the point you make, that there is a private purpose in the location of (as opposed to the use of) our facility. Interesting. The fact is, of course, that the developer, not the District, is building the thing at his sole cost and is under no order from the City as to precise location. Can we dictate his decision on this point? I have no immediate answer.

Faithfully,

Albert Thomas Henley
General Counsel

bc: James T. Harper, HMH, Inc., Consulting Civil Engineers, Koll Business Park, 1415 Koll Circle, Suite 107, San Jose, CA 95112

Gary Schoennauer, Planning Department, City of San Jose, 801 N. First Street, San Jose, CA 95110

L. Fowler; G. Korbay; J. Richardson; W. Carlsen; D. Lawrie; B. Goldner

ATH:scs

2/25 ATH

LAW OFFICES OF

TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

February 21, 1980

Albert Thomas Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No T 78-1-7

Dear Mr. Henley:

Thank you for your letter of February 15, 1980; your comments help to focus the issue.

I agree, upon reflection, with your statement that the facility will be a public improvement and serve a public purpose.

However, the fact remains that the facility may be located on the developer's property as easily as it may upon my clients' property, and that the developer has requested that it be located on my clients' property and has agreed to pay the costs incurred by the Water District to acquire my clients' property.

Wouldn't you agree that the purpose behind locating the facility on my clients' property is to increase the developer's profit from his subdivision, and that this is a private purpose?

Very truly yours,

Bruce Tichinin

BRUCE TICHININ

BT:cc

cc: Clients
Bernard Goldner
W.F Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

Sediment control

265

Santa Clara Valley Water District

ALBERT THOMAS HENLEY
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600

February 15, 1980

Bruce Tichinin, Esq.
Tichinin & Mitchell
Attorneys at Law
17575 Monterey Street
Morgan Hill, California 95037

Dear Mr. Tichinin:

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision, File No. T78-1-7

I believe you are wrong in your assumption that the subdivision concerned in the Ruby Creek sediment control facility did not have EIR review. However, the issue before this District is whether to permit the construction proposed by the developer as required by the City. On this question our staff will ensure appropriate CEQA compliance.

The further issue, as I understand it, is whether this District may exercise its power of eminent domain to acquire the title necessary for the facility. You are suggesting that we would be condemning for a private purpose. We would not and clearly could not do that. The facility is a public improvement and will serve a public purpose; it will be owned, operated and maintained by a public agency (this one) for the control of flood and storm waters.

I have considered the issue before and given often and prayerful study to the cases. Those you cite do not meet the question because they actually beg the issue. Would you not agree that the law is that if you don't find a public purpose you don't condemn; if you do you may.

Necessity is something else and here we will be able to show that the facility is essential to the operation of our channel. (Note, not the channel of a private mining company: our channel.)

Faithfully,

Albert Henley

Albert Thomas Henley
General Counsel

bc: James Harper, HMH, Inc., Consulting Civil Engineers
Koll Business Park, 1415 Koll Circle, Suite 107, San Jose, CA 95112

Gary Schoennauer, Planning Department, City of San Jose
801 N. First Street, San Jose, CA 95110

bc: J. Richardson
B. Goldner

ATH:scs

AN EQUAL OPPORTUNITY EMPLOYER

2/13 ATH WHP CA: BHG LCF CA: D CA: MFC NLR CJK EHS 1286

LAW OFFICES OF
TICHININ & MITCHELL

BRUCE TICHININ
ROBERT B. MITCHELL
ATTORNEYS AT LAW

17575 MONTEREY STREET
MORGAN HILL, CA 95037
TELEPHONE (408) 779-9194

February 12, 1980

Albert T. Henley
General Counsel
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118

Re: Ruby Creek Sediment Pond; City of San Jose Subdivision File No. T78-1-7.

Dear Mr. Henley:

Please be advised by this letter that I represent the following owners of real property in the general area of the Ruby Creek project referred to above: Hazel J. and Kenneth H. Hall, Lewis and Jean Glick, Richard and Patricia Bibby, David C. and Debra J. Zozaya, and Hubert E. King.

It is my understanding that the City of San Jose, and the Santa Clara Valley Water District will require that the subdivider who constructs the subdivision referred to above also construct a sediment pond at the headwaters of Ruby Creek in the area of the proposed subdivision and my clients' property, as a condition of subdivision map approval. This facility is being required pursuant to the City of San Jose Evergreen Policy, Phase III and plans prepared previously by the Water District for the area.

From a discussion at which I, my clients, James Harper, a consulting engineer for HMH, Incorporated representing the subdivider (Kaufman and Broad), and Mr. Carlson, Mr. Goldner and Mr. Lawrie of your staff were present, it is my understanding that the Water District believes that it is possible from an engineering standpoint to place the sediment pond facility either on the property to be subdivided, or on my clients' property, and that plans to place the facility on my clients' property have not been reviewed for their adverse impact upon the environment, potential mitigation measures, or alternative project sites or configurations under the California Environmental Quality Act.

My review of the City of San Jose file on this subdivision discloses that the City Council of the City of San Jose never reviewed the tentative map in this matter, nor exercised its discretion with respect thereto, but that it is currently deemed to stand approved pursuant to the provisions of

Government Code Section 66452.4 relating to approval by failure to act.

Furthermore, though a Draft EIR was prepared initially for this subdivision, the final and official CEQA treatment of this subdivision by the City of San Jose was a Notice of Determination based on a Negative Declaration (copies enclosed) which appear to me to be legally deficient in the following particulars:

1. Inadequate Initial Study. (State EIR Guidelines §15080(c) (Subdivision 3)). I find no identification of environmental effects by use of a check-list, matrix or other method. In fact, I was unable to discover any Initial Study in the file.

2. No EIR Despite Significant Effects. The initial preparation of a Draft EIR for the subdivision project seems an admission by the developer and the City of San Jose that the project may have significant effects on the environment and therefore requires the preparation of an EIR under CEQA;

3. Failure of City Council to Make Determination. The Negative Declaration and Notice of Determination were prepared not by the City of San Jose which is the Lead Agency for the discretionary project of the subdivision map approval (State EIR Guidelines §§15023.7, 15024, and 15030) but rather by the Director of Planning.

In addition to failing to comply with CEQA, it appears that the developer proposes that, though the facility might be entirely located on the property to be subdivided, the sediment pond basin be located so as to require the flooding and acquisition of my clients' real property.

In this particular situation where it so clearly appears that only the private use proposed by the developer invokes a need for the construction of the facility at all, it is further entirely possible to construct the facility on the developer's property rather than my clients' property, and it is finally proposed that the cost of any eminent domain acquisitions by the Water District of my clients' property for the sediment pond would be paid by the private developer, it seems to me abundantly clear that the proposed taking would be for the developer's private use, and not a public use, and that the taking of my client's property would be a denial of substantive due process since it would be arbitrary, capricious and unreasonable to take my clients' property for the purpose when the developer's property

could serve as well.

With respect to the former grounds, I invite your attention to the following California cases:

1. City of Los Angeles v. Keck (1971) 14 Cal 3rd 290; 92 Cal Rptr. 599; In this case the City sought to condem a fee in a parcel in which it had an easement. Condemnation was for purposes of installation of power lines. It was acknowledged that no greater area of land surface was required for the present or future operations of the power lines than that already secured in the easement. The Court held that condemnation proceedings through eminent domain did not lie because there was no showing of public necessity.

2. County of Alameda v.Meadowlark Corporation (1964) 227 Cal App 2d 80, 38 Cal Rptr 474, and County of San Mateo v. Coburn (1900) 130 Cal 631; Holding that the issue of whether or not the property sought to be condemed was actually to be put to a public use is a justiciable issue.

3. Consolidated Channel Co. v. Central Pacific R.R. Co. (1876) 51 Cal 269: The plaintiff mining company sought to procure by condemnation certain lands belonging to the defendant railway company, to serve as a site for a bed-rock flume to carry dirt and gravel from its mining claims operations. Held: No power of eminent domain existed because the proposed use was clearly private.

"It is clear... that the object sought is the appropriation of the private property of the defendants to the private use of the plaintiff. The proposed flume is to be constructed soley for the purpose of advantageously and profitably washing and mining plaintiff's mining ground. It is not even pretended that any person other than the plaintiff will derive any benefit whatever from the structure when completed. No public use can possible be subserved by it. It is a private enterprise, to be conducted soley for the personal profit of the plaintiff, and in which the community at large can have no concern. It is clear that this case does not come within the meaning of that clause of the

> Constitution which permits the taking of private property for a public use after just compensation is made." (51 Cal 272)

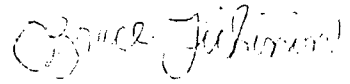
The Court cited with approval the following language from Loan Association v. City of Topeka in which the City had issued certain bonds to the plaintiff as a donation to encourage that company in its design of establishing a manufactory of iron bridges in that city: "If it be said that a benefit results to the local public of a town by establishing manufactures, the same may be said of any other business or pursuit which employs capital or labor, the merchant, the mechanic, the inkeeper, the banker, the builder, the steamboat owner, are equally promoters of the public good, and equally deserving of the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer which would not open the coffers of the public treasury to the importunities of two-thirds of the businessmen of the city or town." (51 Cal 272).

The facts of this case and our case are interestingly close. In Consolidated Channel Co., the facility for which land was taken was a channel to conduct away debris; in our case it is a pond to catch debris in order to prevent it from being conducted with water flowing in the channel.

On behalf of my clients, I readily recognize the power of the Water District, to take private property for public use when necessity requires it. I respectfully propose that reflection will disclose that this is one of those rare instances in which neither public use nor public necessity is involved. My clients will defend any attempt to take their property in eminent domain proceedings on that ground, and any others which may exist.

I would welcome your analysis and comments on this interesting matter.

Very truly yours,



BRUCE TICHININ

BT:cc
cc: Clients
Bernard Goldner
W.F. Carlson
Donald A. Lawrie
James T. Harper
Gary Schoennauer

NEGATIVE DECLARATION

CITY OF SAN JOSE, CALIFORNIA

270

FILE NO. T 78-1-7

Adopted

DATE 8/2/78

PROJECT LOCATION

Southeasterly corner of Tully Avenue and Ruby Avenue

County Assessor's Parcel Number: 652-12-8

PROJECT DESCRIPTION

Tentative Subdivision Map for 72 lots for single-family residential use on 20.4 gross acres zoned R-1:B-8.

CERTIFICATION

The Director of Planning certifies that the above project will not have a significant effect on the environment. This finding is based on the following considerations:

1. A geologic report and preliminary soils report have been prepared for the site which indicate the site is suitable for the proposed development.
2. Potential flooding impacts from the project are mitigated by requirements for flood protection measures with the project (construction of Ruby Creek to a 1% flood protection standard from Silver-Thompson Creek to the sediment basin and control of all headwaters).
3. An archaeological reconnaissance revealed no traces of archaeological resources.
4. A traffic report prepared for the project indicates all peripheral access intersections will function at a level of service D or better upon completion of the improvements scheduled in the Five-Year Capital Improvement Program and budgeted in the Transportation Financing Program for 1978-79.

July 31, 1978
Date

JOHN W. HAMILTON
DIRECTOR OF PLANNING

The Initial Study on which this Negative Declaration is based was prepared by the Director of Planning and is on file in the Office of the City Planning Department.

By William L. Phillips
William L. Phillips, Deputy

PROTEST OF NEGATIVE DECLARATION

The Director's finding may be protested in writing by any person within five (5) working days of adoption of this Negative Declaration. Such protest shall be filed in the office of the City Planning Department, City Hall Annex, Room 400, 801 N. First Street, San Jose, upon payment of the $50 filing fee and shall include a statement specifying those anticipated environmental effects which may be significant. A protest of a Negative Declaration will be heard by the Planning Commission at the earliest possible date.

CITY OF SAN JOSE
CALIFORNIA

JOHN KAZHDOWSKI, C
Depu

NOTICE OF DETERMINATION

(Project for which a Negative Declaration has been prepared.)

CITY PLANNING

CITY FILE NO. T 78-1-7

PROJECT LOCATION AND DESCRIPTION:
(Include project common name where possible.)

Southeasterly Corner of Tully Avenue and Ruby Avenue

Tentative Subdivision Map for 72 lots for single-family residential use on 20.4 gross acres zoned R-1:B-8.

PROJECT DECISION:	DECISION-MAKING BODY:	DECISION DATE:
Approved	Director of Planning	10-14-78

DETERMINATION OF ENVIRONMENTAL EFFECTS.

1. No EIR has been prepared for this project pursuant to the California Environment Quality Act.

2. It has been determined by Negative Declaration that this project will not have a significant effect on the environment.

3. A copy of the Negative Declaration for this project may be examined at the Office of the Director of Planning of the City of San Jose, Room 400, City Hall, 801 North First Street, San Jose, California, 95110.

JOHN W. HAMILTON
Director of Planning
City of San Jose

By William L. Phillips
WILLIAM L. PHILLIPS, Deputy

4019

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IDENTICAL LETTER SENT TO ATTACHED LIST OF ADDRESSEES

December 20, 1978

Project: Ruby Creek

File No: 4019

Joseph & Marie Inderbitzin
2496 Ruby Avenue
San Jose, California 95122

Dear Mr. & Mrs. Inderbitzen:

As part of the solution to flooding problems in the Ruby Creek Watershed downstream from your property, a sediment control facility is proposed in the canyon near Klein Road. Such a facility would store storm runoff temporarily so that much of the silty material would be trapped in a basin rather than clogging downstream facilities.

A potential developer of land in the watershed may be required to construct the sediment control facility. In order to determine design criteria, it is necessary to do some soil testing within the portion of your land outlined on the attached map. The work will consist of drilling test holes and digging test pits. The holes or pits will be refilled with the soil that has been removed.

Every effort will be made to not damage your property while this work is being done and none is expected, but if something should be damaged, the District accepts full responsibility and will gladly make repairs.

We are enclosing an original and one copy of a permit authorizing the Water District to enter upon your land and do the work described above. Please sign the original permit and return it in the self-addressed, stamped envelope by January 2, 1979 to avoid delaying the project. You may keep a copy of the permit for your records.

Your help and cooperation in this important work is sincerely appreciated. If you have any questions, please phone the undersigned at 265-2600.

Sincerely yours,

ORIGINAL SIGNED BY

Richard S. Miller
Real Estate Agent
Real Estate Division

Enclosures

RM:DAL:jf

Project: Ruby Creek

File No. 4019

Name: _____

LIMITED PERMISSION TO ENTER

The undersigned owner(s) of APN _____, hereinafter "Owner", hereby grant(s) permission to the Santa Clara Valley Water District or its authorized agents, hereinafter "District", to enter the real property of the owners within the area shown in red on the attached plat for the purpose of drilling test holes and digging test pits.

The permit is granted SUBJECT to the following conditions:

1). Permission granted herein is not to be construed as a grant of title or any interest to or in the real property affected hereby.

2). District will backfill said test hole boring and/or test pits. The subject area will be restored to a condition equal or superior to that existing prior to work.

3). District will be fully responsible for any damage to the property or Owner arising out of the use of this permit and District shall save and hold harmless Owner from and on account of liability for damage to persons or property of others occasioned by said use.

4). This permission shall terminate upon completion of the work.

Dated: _____ 1978

OWNERS

_____

_____

Project: Ruby Creek

File No: 4019

IDENTICAL LETTER (dated 12/20/78) SENT TO FOLLOWING:

APN 652-11-6 Joseph & Marie Inderbitzin 2496 Ruby Avenue San Jose, CA 95122	Permit Signed 12/27/78
APN 652-11-8 Jean L. Glick 2457 Klein Road San Jose, CA 95122	12/30/78
APN 652-9-14 Walter & Thais Kampfen 2430 Klein Road San Jose, CA 95122	1/15/79
APN 652-11-9 Bill N. & Maxine Ellis 3319 Pepper Tree Lane San Bernardino, CA 92404	12/30/78

A discussion followed.

Mr. Esau stated that the San Felipe Project was strongly supported by the California Water Commission. The Commission members stated on various occasions that the San Felipe Project is one of the most important projects in California and regardless of the financial shortages this project must continue with full capability.

APPEAR VELMA MILLION COYOTE/ RUBY CRK FC STUDY

Mrs. Velma Million, Member of the East Zone Flood Control Advisory Committee, asked if there was money for the ~~Coyote-Ruby Creek~~ Coyote Creek-Guadalupe River Flood Control Study. Director Sapp stated that because of the economic picture it is highly probable that the project will be reduced. Director Sapp stated that it is still a feasible project.

RUBY CRK

9. Mr. Korbay reviewed the proposed construction of Ruby Creek Flood Control Project by developers and the request that the District acquire the necessary right of way. An explanation is contained in the attached memorandum.

SEDIMENT CONTROL FACILITY

Mr. Korbay stated that in the early 1970's the District, in conjunction with the City of San Jose, the County of Santa Clara, and others, formulated a plan of operation for the East Flood Control Zone. They identified 18 projects within the East Zone and adopted a series of plans. Even before Proposition 13 passed the East Zone had financial problems. In order to utilize all available financing the City of San Jose and the District formulated a method of operation to get the needed facilities built. It was decided that when a development was started in the area, the developer would be responsible for the installation of the flood control facility. Mr. Korbay reviewed various Evergreen Area projects that have been constructed by developers. Mr. Korbay stated that the project that is now being presented to the Board is a sediment control facility and appurtenances on Ruby Creek that will be constructed by the developer. The developer has asked that the District acquire the necessary right of way at the developer's expense.
Mr. Korbay commented that there is a large group of landowners in attendance at the meeting today to discuss the site of the sediment control facility. Mr. Korbay described the proposed facility site and why it was chosen.

Mr. John Richardson, Supervising Civil Engineer, described the proposed project and various types of possible mitigation measures. Mr. Richardson showed slides of the area. Mr. Richardson then reviewed the development history and timing of that development in the area. He then described the sediment control facility.

Mr. Richardson stated that the first time contact was made with the residents concerned was July 1979. Mrs. Hazel Hall, a resident stated at that time that she wanted to be kept informed on the progress of the project. In January 1980 District staff had a meeting in the field with residents and a representative of the developer.

The residents expressed their concern regarding the proposed location. Due to this concern, staff reviewed their decision made in 1977 and evaluated two alternative sites. The results of this study showed that there is no significant impact to the proposed basin and therefore staff is recommending that the sediment control facility be located as proposed. (continued below)

Chairman Peralta declared recess. RECESS

Upon reconvening the same Board members and staff were present.

10. Chairman Peralta opened the meeting for public comment on any subject not on the agenda. There was no one present who wished to speak. PUBLIC COMMENT

9. (continued) Mr. Bruce Tichinin, Attorney representing the residents, appeared before the Board. APPEAR BRUCE TICHININ ATTY

Mr. Tichinin stated that the residents opposed the proposed location and further stated he feels that the only reason staff is recommending this location is because the developer has requested this site.

Mr. Tichinin stated that the developer and the City of San Jose have a written agreement that states that as a condition for approval of their tentative map the developer will construct the Ruby Creek Facility. Mr. Tichinin commented that he has been in contact with the City of San Jose and feels that the City is looking to the Board to make the decision on which of the three locations the basin will be constructed. Mr. Tichinin stated that if the facililty is located on the developers'land he will lose approximately 10 lots. Mr. Tichinin discussed the possibilities of constructing the facilities at each possible site.

Mr. Tichinin reviewed the background of the project, various correspondence, the eminent domain law, and the lack of an approved Environmental Impact Report on this project.

A lengthy discussion followed.

Mrs. Hazel Hall, resident, addressed the Board. Mrs. Hall passed out a pamphlet of communications that she had gathered on the proposed project. Mrs. Hall referred to a letter dated March 15, 1978, from HMH, Incorporated to John Richardson. Mrs. Hall read aloud the first paragraph which stated that the developer was in the process of negotiations with the landowners. Mrs. Hall stated that she was not aware of the proposed facility until July 1979 and to this date no one has contacted the property owners to consider negotiations. APPEAR HAZEL HALL

Mrs. Hall referred to a memorandum from Dr. Bernard Goldner, Environmental Specialist, dated March 14, 1980. Mrs. Hall read aloud a part of the memorandum which states that only a handful of people will see the facility at the proposed site where at the other site it will be more visible. Mrs. Hall stated that staff has stated that mitigation measures will be used on the site so the fact of visibility is immaterial. Mrs. Hall questioned that the pond has to be placed in alignment with Tully Road.

A discussion followed.

Mrs. Richard Biby, 1443 Klein Road, San Jose, addressed the Board. Mrs. Biby stated that the proposed facility will have a great effect on her way of life. Mrs. Biby stated that they raise horses and use the land on which the proposed facility will be constructed to graze their horses. Mr. Biby stated that they have lived on the property for twenty years. APPEAR MRS RICHARD BIBY

Mrs. Glicken, resident, stated that from 1/3 to 1/2 of her property will be taken for the construction of the sediment basin. Mrs. Glicken stated that she has no objection to sediment ponds or sub-dividers, but she strongly objects that the proposed pond will be constructed on her property against her wishes. Mrs. Glicken stated that she feels the sediment pond is being constructed for the developer's benefit and therefore should be constructed on the developer's property.

APPEAR MRS GLICKEN

A lengthy discussion followed.

Mrs. Velma Million, 28509 Klein Road, addressed the Board. Mrs. Million stated that because of the financial constraints of the City of San Jose, Tully Road will have to be financed by developers or it will not be constructed at all. Mrs. Million also stated that she realizes the sediment basin is very important. However, where the sediment basin is located is another matter. Mrs. Million discussed the three possible sediment basin sites. Mrs. Million commented why should the people who have lived there a long time suffer when people who do not reside as yet in the area benefit.

APPEAR VELMA MILLION

Mrs. Million asked the Board to give this matter a great deal of consideration before making a decision.

Mrs. Million encouraged the Board to go out and look at the site. Mrs. Million expressed concern on preserving the beauty of the creek.

A discussion followed.

Director Sanchez asked what is the status of the displayed map.

Mr. Jim Harper, H. M. H. Civil Engineers, stated in answer to Director Sanchez's question that the map that is displayed is in final map form. It has not been finally approved by the City Council but has been approved by the Director of Planning. (continued below)

11. At 11:00 a.m. the Board considered Bids for Sale of $21,000,000 principal amount of District Water Revenue Bonds, Series B. Mrs. Susan A. Ekstrand, Clerk of the Board of Directors, opened the bids. The first bid received was from the First Boston Corporation and Associates. Mr. Robert Powell of Stone and Youngberg Financial Consultants, reviewed the bid. Mr. Powell stated that the bid was for total interest cost of $21,937,026.67 plus a discount of $416,291.30 which gives a net interest of $22,353,317.97 or an average interest rate of 9.4681%. A check in the amount of $210,000 was enclosed as evidence of good faith. The next bid was from Merrill Lynch, White Weld Capital Markets Group and Associates. Mr. Powell reviewed the bid and stated that they bid a discount of $380,113.70 which results in an estimated interest cost of $23,472,690.37 or a net interest rate of 9.942264%. A check for $210,000.00 was enclosed.

BID OPENING SCVWD WTR REV BONDS SERIES B

The third and last bid received was from Salomon Brothers. Mr. Powell reviewed the bid and stated that the bid was for a gross interest cost of $21,885,054.17 plus a discount of $419,291.00 for a net interest cost of $22,304,345.17 or an average interest rate of 9.4473%. A check for $210,000.00

AGENDA MEMORANDUM

AGENDA DATE 4/1/80 ITEM NO. _____ UNIT Design and Construction

ZONE E PROJECT NO. _____ NAME Ruby Creek

SUBJECT: Construction of Ruby Creek Flood Control Project by Developers and Request that District Acquire the Right of Way

EXPLANATION:

In accordance with the City of San Jose Evergreen Development Policy, a developer has been required to construct Ruby Creek from, and including, the sediment control facility to downstream of White Road as a condition of receiving approval of residential subdivisions. The City of San Jose will construct the reach between the end of this project and the existing Flint-Ruby Creek Channel within Lake Cunningham Park. Construction of the project is planned to begin this spring.

The developer has asked that the District acquire the necessary right of way (see attached letter) at developer's expense. Staff believes that this is an appropriate request and staff will be able to handle the work. It is proposed that a reimbursement agreement be formulated and returned to the Board for approval.

An EIR for the subdivision, prepared by the City, also described the Ruby Creek Flood Control Project. District staff reviewed the EIR in July 1977 and made no substantive or adverse comment. In a more recent review of the detailed flood control project plans, District staff made several suggestions to the engineer to mitigate potential aesthetic and geotechnical impacts.

Staff has been contacted by persons residing in the vicinity of the proposed sediment basin who have expressed concern on its proposed location. A meeting was held between these residents and representatives of the developer. District staff were in attendance. Also, an exchange of correspondence has taken place between Mr. Henley and Mr. Bruce Tichinin, an attorney retained by the residents. The meeting and the correspondence indicate that the residents would like to see the sediment control facility relocated off their property. Location of this basin was first tied to the alignment of future Tully Road in the adopted 1970 Ruby Creek Engineer's Report. Following the establishment of the final alignment of Tully Road by the City of San Jose, the staff confirmed the proposed location of the sediment basin by letter in August 1977 to representatives of the developer. Since that time they have designed their housing project and the Ruby Creek project with this sediment basin location. Staff has reexamined the location of this basin relative to several other sites and recommends that the basin be located as proposed.

RECOMMENDATION: Approve in concept the request that the District obtain needed right of way for the project and direct preparation of a reimbursement agreement with project sponsors for subsequent consideration by the Board.

Continued to 4/13/80

HMH, INCORPORATED
CONSULTING CIVIL ENGINEERS

1415 KOLL CIRCLE, SUITE 107
SAN JOSE, CA. 95112
(408) 294-3232

KENNETH H. HANKINS, R.C.E.
EDWIN J. MILLER, R.C.E.
JAMES T. HARPER

January 16, 1980
Job 206-76-3

Mr. Don Lawrie
Real Estate Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, Ca. 95118

Reference: Ruby Creek

Dear Mr. Lawrie:

Our client, Kaufman and Broad, has requested that we advise you that they would be interested in pursuing negotiations with the Santa Clara Valley Water District to prepare necessary appraisal reports and pursue required property acquistion for the proposed Ruby Creek retention basin. It was our understanding at our meeting on Wednesday, January 9, that it would be necessary for you to receive authorization from your Board to pursue the appraisal and acquisition function and further that the District would charge a fee for performance of those functions.

We respectfully request on behalf of Kaufman and Broad that you make the necessary request to your Board at your earliest convenience for authorization to pursue the appraisal and property acquisition functions for implementation of the Ruby Creek improvement project. Please direct correspondence to the attention of Mr. Rob Miller at Kaufman and Broad, 6379 Clark Avenue, Dublin, Ca. 94566, phone number 829-4500, for particulars.

Preliminary title reports of the properties that will be affected by the retention basin have been issued by First American Title Company of San Jose. Two preliminary copies of a record of survey of the affected properties are enclosed for your use.

Should you have any questions, do not hesitate to call.

Very truly yours,
HMH, Incorporated

Jim Harper

James T. Harper
Vice President

JTH/vt

CC: Rob Miller

'80 JAN 18 PM 2:37
VALLEY WATER DISTRICT
SANTA CLARA

Misc.

20 May 81

Ruby Creek 40019

9 Dec 69 - Res. 69-106 setting public hearing on Jan 13, 1970 11 AM

Dec 17, 1969
24, 1969 } ads in San Jose News
report at S.J. Fire Sta 2525 Alum Rk.
Sil Library 2255 Oakla Ave

13 Jan 70 Public Hearing 11 AM
13 Jan 70 Res. No 70-4 adopting report
No mention on verbal opposition

Above given to Dick Wyche
297-9172

§ 60–11. Selection of projects; determination of benefits

Sec. 11. The board shall determine which projects or works of improvement shall be carried out and shall determine, as to each project or work of improvement, that it is either:

1. For the common benefit of the district as a whole; or
2. For the common benefit of two or more zones hereinafter referred to as participating zones; or
3. For the benefit of a single zone. (Stats.1951, c. 1405, p. 3344, § 11.)

§ 60–12. Institution of zone or joint zone projects; hearing; determination; majority protest

Sec. 12. The board may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of same to be borne by the particular zones or participating zones and fixing a time and place for public hearing of said resolution and which shall refer to a map or maps showing the general location and general construction of said project. Notice of such hearing shall be given by publication once a week for two consecutive weeks prior to said hearing, the last publication of which notice must be at least seven (7) days before said hearing, in a newspaper of general circulation designated by the board, circulated in such zone or each of said participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to said hearing in five public places designated by the board, in such zone or in each of said participating zones. Said notice must designate a public place in such zone or in each of said participating zones where a copy or copies of the map or maps of said joint project may be seen by any interested person; said map must be posted in each of said public places so designated in said notice at least two weeks prior to said hearing.

At the time and place fixed for the hearing, or at any time to which said hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing the board may abandon the proposed project or proceed with the same, unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters residing within such zone or participating zones be filed with the board, in which event further proceedings relating to such project must be suspended for not less than six months following the date of the conclusion of said hearing, or said proceeding may be abandoned in the discretion of the board. (Stats.1951, c. 1405, p. 3344, § 12.)

Cross References

Newspapers, publication of notice, see Government Code § 6000 et seq.

Library References

Levees and Flood Control ⟹12. C.J.S. Levees and Flood Control § 7.

§ 60–12.5 Advisory boards, committees or commissions

Sec. 12.5. The board may create by resolution such advisory boards, committees, or commissions for the district or any zone therein as in its judgment are required to serve the best interests of said district or zones, and may grant to them such duties as are consistent with the provisions of this act. The number of members of any such board, committee, or commission shall be not less than three (3) and shall be specified in the resolution. Members thereof shall serve at the pleasure of the board. The board shall create an advisory committee consisting of farmers to represent users of agricultural water. (Stats.1951, c. 1405, p. 3345, § 12.5, as amended Stats.1955, c. 1018, p. 1930, § 1; Stats.1962, 1st Ex.Sess., c. 38, p. 266, § 2.)

TOPIC RUBY Crk Proj ~~40019~~ 4019

LEGISLATIVE HISTORY RECORD

FILE NO. 141

DETAIL

DATE	ACTION OF COUNCIL OR BOARD	MINUTE BOOK VOLUME	MINUTE BOOK PAGE
3-12-68	Hrg Rpt; FC Impr fr E Foothills to Silver Creek; Apprvd p205	1	75
12-9-69	Res 69-106: Setting Time/Place for Pub Hrg for Propsd fld		
	control impr on Flint/Ruby Crks; 11:00 a.m. 1-13-70;		
	Est cost $1,428,000; Adopt p649	13	640
1-13-70	Pub Hrg on propsd fld cotrl improve; p10; Res 70-4: Approv Rept		
	of Engr/Determin to Proceed w/constr of fld contrl facil for		
	Flint/Ruby Crks Zone No E-1; Adopt p173	15	10
3-21-78	Claim of Damages of Pleasant Hills Golf Club Inc/Harry T Duino &		
	Anna in the vicinity of Flint Crk/Ruby Crk/wtr trib DENIED		
	p134	119	107
4-1-80	G Korbay review propsd constr Ruby Crk Fld Cntrl Proj (sediment		
	cntrl facil/appurt); J Richardson describe proj/show slides;		
	BTichinin (Atty f/residents) address Bd; Hazel Hall; Ms R Biby		

(cont'd next card)

July, but it was not until November that the magnitude of the Contra Costa County protest was recognized by the water contractors.

Director Wilcox remarked that if the water in the Delta were maintained constantly at the level the Contra Costa County interests are demanding the levees would be damaged and there would be seepage problems.

It was moved by Director Corsiglia, seconded by Director Sturla and carried by roll call vote that Resolution No. 70-3 STATING SUPPORT OF THE PERIPHERAL CANAL be adopted. Director Sapp voted "no". RESOLUTION 70-3

Chairman Lenihan declared a 10 minute recess at 10:40 a.m. RECESS

14. At 11:00 a.m., Chairman Lenihan announced that a public hearing on the matter of proposed flood control improvements for Flint and Ruby Creeks, Project Nos. 40019 and 40048 was now open. PUBLIC HEARING ON FLINT AND RUBY CREEKS PROJECT NOS 40019 AND 40048

Mr. Fowler explained the proposed project in detail by displaying the proposed plan with the overhead projector. The Chairman called for comment from the floor. No one was present in the audience who wished to speak and the staff reported that no written communications protesting the project had been received. The Chairman then declared the public hearing closed.

It was moved by Director Chiri, seconded by Director Corsiglia and carried by roll call vote that the following Resolution, to be numbered 70-4, APPROVING REPORT OF ENGINEER AND DETERMINING TO PROCEED WITH CONSTRUCTION OF FLOOD CONTROL FACILITIES FOR FLINT AND RUBY CREEKS ZONE NO. E-1, be adopted. RESOLUTION NO. 70-4

RESOLUTION NO. 70- 4

APPROVING REPORT OF ENGINEER AND DETERMINING TO
PROCEED WITH CONSTRUCTION OF FLOOD CONTROL FACILITIES
FLINT AND RUBY CREEKS
ZONE NO. E-1

WHEREAS, on the 9th day of December 1969, the Report of the District Engineer was filed with this Board, which report consisting of maps and general construction plans for Flint and Ruby Creeks Zone E-1 did show:

1. A general description of the proposed channel improvements, together with plans, profiles, cross sections and specifications relating thereto.

2. A general description of and maps showing the location of the proposed projects and the lands, rights-of-way, and easements required therefor.

3. An estimate of the cost of the proposed projects, and means of financing these costs; and

WHEREAS, this Board of Directors did on the 9th day of December 1969, adopt its resolution 69-106 declaring that the public interest and convenience require the construction of said project in accordance with said maps and general construction plans as contained in said report and specifying its intention to undertake construction of the same and setting a time and place for public hearing of said resolution, to wit the 13th day of January 1970, at 11:00 a.m., in the Board Room at the Rinconada Water Treatment Plant, 400 More Avenue, Los Gatos, California; and

WHEREAS, notice of the time and place of said public hearing was duly given and published pursuant to Section 12 of the Santa Clara County Flood Control and Water District Act; and

WHEREAS, on said 13th day of January 1970, at the time and place in said resolution and in said notice specified, a public hearing was duly held;

NOW, THEREFORE, be it resolved by the Board of Directors of Santa Clara County Flood Control and Water District as follows:

1. That this Board hereby finds and determines that no written protests against the proposed projects signed by registered voters residing within said Zone E-1 of the District were filed with said Board prior to the conclusion of said hearing.

2. That this Board hereby approves said Engineer's Report including the maps and general construction plans for Flint and Ruby Creeks in said Zone No. E-1.

3. That this Board hereby determines that said projects are for the benefit of a single zone of the District to wit, Zone No. E-1; further determines to proceed with the construction of said flood control and storm drainage facilities in Zone No. E-1 according to the said reports and plans of the Engineer of this District; and further determines that the cost thereof shall be borne by said Zone No. E-1.

4. That the District Engineer is directed to draw up precise plans and specifications for said project based upon his said report previously filed with this Board on December 9, 1969.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara County Flood Control and Water District this 13th day of January 1970, by the following vote:

AYES: Directors J. CHIRI, V. F. CORSIGLIA, M. E. DULLEA, J. J. LENIHAN, R. T. SAPP, R. J. STURLA, [redacted] F. A. WILCOX

NOES: Directors none

ABSENT: Directors none

SANTA CLARA COUNTY FLOOD
CONTROL AND WATER DISTRICT

James J. Lenihan

Chairman of the Board of Directors
of the Santa Clara County Flood
Control and Water District

ATTEST: VIOLET V. ENANDER

Violet V. Enander

Clerk of said Board of Directors

PROOF OF PUBLICATION

SAN JOSE NEWS

750 RIDDER PARK DRIVE
SAN JOSE, CALIFORNIA

IN THE

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

In the Matter of
Santa Clara Co. Flood Control & Water Dist.
Notice Time & Place of Public Hearing
Improv. on Flint and Ruby Creeks

No.

STATE OF CALIFORNIA,
COUNTY OF SANTA CLARA } ss.

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceeding; and was at and during all said times and still is the principal clerk of the printer and publisher of the San Jose News, a newspaper of general circulation printed and published daily (except Sundays) in the city of San Jose in said County of Santa Clara, State of California, that said San Jose News is and was at all times herein mentioned a newspaper of general circulation as that term is defined by Sections 6000 and following, of the Government Code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bona fide subscription list of paying subscribers, and is not devoted to the interests or published for the entertainment or instruction of a particular class, profession, trade, calling, race or denomination, or far the entertainment and instruction of any number of such classes, professions, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said city of San Jose in said County and State at regular intervals for more than one year preceding the first publication of the notice herein mentioned; that said notice was set in type not smaller than nonpareil and was preceded with words printed in black-face type not smaller than nonpareil, describing and expressing in general terms, the purport and character of the notice intended to be given; that the clipping of which the annexed is a true printed copy, was published and printed in said newspaper on the following dates, to-wit:

December 17, 24, 1969

Dated at San Jose, California

this 24th day of December, 19 69

I declare under penalty of perjury that the foregoing is true and correct.

Signed Helen J. Rice
Principal clerk of the printer and publisher of the San Jose News.

1968-ACC-4

NOTICE OF TIME AND PLACE OF PUBLIC HEARING ON PROPOSED CONSTRUCTION OF FLOOD CONTROL FACILITIES AND COSTS THEREOF WITHIN THE EAST ZONE OF SANTA CLARA COUNTY FLOOD CONTROL AND WATER DISTRICT

NOTICE IS HEREBY GIVEN that the 13th day of January 1970 at the hour of 11:00 A.M., in the Board Room of the Rinconada Water Treatment Plant, 400 More Avenue, Los Gatos, California, is the time when and place where a public hearing will be held on the Resolutions of the Board of Directors of the Santa Clara County Flood Control and Water District specifying intention to undertake construction of flood control facilities within and for the benefit of the East Zone of the Santa Clara County Flood Control and Water District;

That plans for the construction of said flood control facilities are contained in the Engineer's Reports of proposed improvements for the East Zone titled "Report on Proposed Channel Improvements on Flint and Ruby Creeks", which said Reports also contain maps of the zone showing the general location and general construction of said flood control facilities and is on file in the office of the Clerk of the Board of Directors, 516 East Martha Street, San Jose, California, and may also be seen by any interested person on the bulletin board at the San Jose Fire Station, 2525 Aborn Road, San Jose and San Jose Library, Hillview Branch, 2255 Ocala Avenue, San Jose, both of which are within said East Zone. The cost of the work on these creeks to be borne by said zone, according to engineering estimates is $1,428,000.

That at the time and place fixed for said hearing or at any time to which said hearing may be continued said Board will consider all written and oral objections to the proposed project; that upon the conclusion of the hearing the Board may abandon the proposed projects or proceed with the same unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters resident within said East Zone be filed with the Board, in which event further proceedings relating to such projects shall be suspended for not less than six (6) months following the date of the conclusion of said hearing, or said proceedings may be abandoned in the discretion of the Board;

That any registered voter residing within said East Zone may file written protest against the proposed projects at said hearing prior to its conclusion, or such protest may be filed prior to the time of such hearing in the office of the Clerk of said District Board, 516 East Martha Street, San Jose, California.

DATED: December 9, 1969
VIOLET V. ENANDER
Clerk of the Board
of Directors of Santa Clara
County Flood Control and
Water District
December 17, 24, 1969.

Memorandum

File 4000 gen

TO	FROM
Mr. John T. O'Halloran	R. R. Esau
SUBJECT	**DATE**
East Zone Public Hearing of February 25	March 4, 1974

You will recall that during subject hearing we provided the audience opportunity to indicate on a sign-up sheet their interest in attending neighborhood meetings on specific East Zone projects. It is my understanding that special notice will be given to these individuals whenever public meetings are held dealing with projects in which they have indicated interest. By projects, the sign-ups were as follows:

Project	Name/Address	Phone
I. All East Zone Projects	Maxine M. Keating 6240 Hancock Ave.	225-7995
	John L. Hellyer Rt. 3, Box 447	274-4661
	Byron H. Bolling 3090 Quimby Road	274-2425
	Jim Peckham 3031 Vesuvius Lane	923-4198
	John Pearson 1532 Harvest Drive	251-1393
	Dave Guzzetta 1450 Dry Creek Road	269-5520
	Kristin Clark 1920 Cooley #20, Palo Alto	325-1825
	*Joan & Dave Henriod 15105 Bellflower Court	259-3214
	*Ellie M. Tershy 3354 Mira Vista Circle	259-1336

*Interested in all projects, but with special interest noted below.

Project	Name/Address	Phone
II. Upper Penitencia Creek	Lynda Goodrich 3864 Pecos Point	258-0552
	Fern Wendt 14970 Penitencia Creek Rd.	258-2777
	Robert Vider 14940 Penitencia Creek Rd.	259-5727
	George Punder 889 Dorel Drive	923-5452
	Marilyn Punder 889 Dorel Drive	923-5452
	Valarie Andrews 861 Dorel Drive	923-5452
	Michael Andrews 861 Dorel Drive	923-5452
	Arlene Romey 470 S. 11th St., #42	998-3248
	M. Laverne Moore 15361 Skyview Drive	258-2049
	Laurie Snyder 888 Dorel Drive	259-9753
	Anita Donahue 867 Dorel Drive	259-2188
	Harold Kellogg 3868 Sophist Drive	272-0741
	Lee & Marylou Olson 3223 Mattos Avenue	No Phone
	Marjorie M. Cutler 1135 Marengo Lane	259-3026
	Ellie M. Tershy 3354 Mira Vista Circle	259-1336

Project	Name/Address	Phone
II. Upper Penitencia Creek (cont'd)	Dale Lane 931 Dorel Drive	259-5594
	Tony Cartelli 909 Otto Court	259-6217
	Gordon J. Vosti 3555 Vista del Mar	259-1641
	Dr. & Mrs. C. A. Short 3640 El Grande Court	251-9139
	D. Connors 1958 Tia Place	251-3575
	D. J. Ribisi 1099 Terra Noble Way	258-2445
	Milo Kiperash 3027 Penitencia Creek Road	294-2577
	Arline Silveira 16205 Highland Drive	259-6939
	John Mitchem 15104 Barbee Court	259-2256
	Joan & Dave Henriod 15105 Bellflower Court	259-3214
III. Lower Penitencia Creek	D. J. Ribisi 1099 Terra Noble Way	258-2445
	Milo Kiperash 3027 Penitencia Creek Road	294-2577
IV. Berryessa Creek	Marjorie M. Cutler 1135 Marengo Lane	259-3026
V. Coyote Creek	Ren Renzel 198 Mt. View Avenue	251-6887
	E. Renzel 120 Arroyo Way	295-5441

Project	Name/Address	Phone
V. Coyote Creek (cont'd)	C. L. Thon 426 Terrace Drive	295-6460
	R. Krohncke 251 So. 18th St.	293-3119
	O. Eschstruth 243 So. 18th St.	295-6632
	Mr. & Mrs. Robert Johnson 339 Brookwood	267-5794
VI. Flint Creek	Vincent Guluzzo 3701 Klein Road	238-3786

ORIGINAL SIGNED BY

Executive Assistant

cc: V. Enander
L. Fowler
G. Korbay
J. Richardson
E. Ferguson
D. Gill
B. Goldner

RRE:jf

Name	Address	Phone No.	Creek No.
John L Hellyer	Rt 3 Box 447	274-4661	All creeks ✓
D. J. Ribisi	1099 Terra Noble Way	258-2445	Lower & Upper Penitencia Creek ✓ concern me.
Milo Kipecash	3027 Penitencia Crk Rd	294-2577	Upper + Lower Penitencia Crk ✓
Vincent Guliuzzo	3709 Klein Rd.	238-3786	Flint Cr. ✓
E. Renzel	120 Arroyo Way	295-5441	#1
C. L. Thon	426 Terrace Ave	295-6760	#1 ✓
R. Krohncke	251 So 18th St.	293-3119	#1 ✓
O. Eschstruth	243 So 18th St	295-1638	#1
Mrs Arline Silveira	16205 Highland Drive	259-6939	Upper Penitencia ✓
Mr. and Mrs. Robt Johnson	339 Brookwood	267-5794	Coyote ✓
BH Bolling	3090 QUIMBY	274-2425	ALL —
Jim Peckham	3031 Vesuvius Lane	923-4198	
John Pearson	1532 Harvest Dr 95127	251-1393	ALL —
DAVE GUZZETTA	1450 Dry Creek Rd.	269-5570	ALL —
Kristin Clark	1920 Cooley #20	325-1824	All —
JOHN MITCHEM	15104 BARBEE CT.	259-2256	13 ✓

Joan Dave Henriod 15105 Bellflower Ct 259-3214

Ellen M. Teesley 3354 Mira Vista Cir 259-1336

(all) - (spec. upper Pent.) Total Plan - Pentelhania Creek emphasis.

39 Signatures

2 Lower Pent.

25 Upper Pent.

8 CCC

1 Pennyroa

6 Coyote

1 Flint

Name	Address	Phone No.	Creek No
LYNDA GOODRICH	3864 PECOS POINT	258-0552	13 ✓
Fern Wendt	14970 Penitencia Cr. Rd.	258-2777	13 ✓
Robert Vieder	14940 Penitencia Cre	259 3727	13 ✓
George Lunder	889 Dorel Dr.	923-5452	13 ✓
Marilyn Lunder	" " "	" "	" ✓
Valarie Andrews	861 " "	923-5452 "	" ✓
Michael Andrews	861 " "	" "	13 ✓
Arlene Romey	470 S. 11th St #42	998-3248	13 ✓
Melanie Moore	15361 Skyview Dr. SJ 95131	258-2049	13 ✓
[illegible] Hayden	888 Dorel Dr	[illegible]	13 ✓
Anita Donahue	869 Dorel Dr	259-2188	13 ✓
HAROLD KELLOGG	3868 SOPHIST DR	272-0741	13 ✓
Lee + Marylou Olson	3223 Mattos Ave	N/P	13 ✓
Marjorie M. Cutler	1135 Marengo Lane	259-3026	14 & 13 ✓
Marjorie M. Keating	6240 Hancock Ave SJ	225-7995	1 through 18 ✓
Dale Lane	931 DOREL D.	259-5594 (13)	✓

TONY CARTELLI	909 OTTO CT S.J.	257-6211	13
Gordon J. Vesti	3555 Vista Del Mar	259 1641	13
Dr. & Mrs C.A. Sherk	3640 El Grande Ct.	251-9139	13
D. CONNORS	1968 TIA PL.	251-3575	13
Ron Renzel	198 Mt View Ave	251-6887	#1

4000 Eng Rpt

April 23, 1974

Individual letters sent to League of Women Voters (See attached)

This District has been conducting a series of public hearings on the Draft Environmental Impact Report and Engineers Report covering 18 streams in the East Flood Control Zone of the District. Following the hearings, the Board will consider certification of the environmental impact report and adoption of planning reports and supplemental environmental impact reports for specific selected projects.

Concurrently with the public hearings, an East Zone Bond Study Committee, established by the District's Board of Directors, is studying the Engineers Report on the 18 streams preparatory to recommending to the Board the projects which should be considered for inclusion in a Bond Issue to be held possibly in 1975-76.

One of the citizens who attended the Public Hearing on February 25 at Piedmont Hills High School was Mr. John Hellyer of Silver Creek Road, San Jose. One of Mr. Hellyers's statements at the public hearing mentioned the League of Women Voters and as I understood his comment, it included the possibility that he would be writing an opposition statement on behalf of the League of Women Voters to such a proposed Bond Issue. I refer you to Lines 8 and 9 of Page 49 of the enclosed transcript of that meeting.

I would appreciate it greatly if you would take the time to write me as to whether:

1. Mr. Hellyer's statement as it involves the League of Women Voters, is true, and

2. Mr. Hellyer has the authority of the League of Women Voters to make such a statement.

Sincerely yours,

Bob

Robert T. Sapp
Director, District 3

Enclosure
Copy: See attached list

bcc: R. T. Sapp; V. Enander

Ms. Marilyn Nyman, President
San Jose - Santa Clara
League of Women Voters
1133 Del Cambre Drive
San Jose, California 95129

Ms. Marion Weiser, President
Los Gatos - Saratoga
League of Women Voters
Post Office Box 335
Los Gatos, California 95030

Ms. Dolowries Wulfhorst, President
Sunnyvale - Cupertino
League of Women Voters
1543 Blackhawk Drive
Sunnyvale, California 94087

Ms. Ann Clifton, President
Los Altos League of Women Voters
1933 Fallen Leaf Lane
Los Altos, California 94022

Ms. Lanie Wheeler, President
Palo Alto League of Women Voters
362 Diablo Court
Palo Alto, California 94306

PROOF OF PUBLICATION

(2015.5 C.C.P)

STATE OF CALIFORNIA,

County of Santa Clara

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the

EAST SAN JOSE SUN

696 Kings Row, San Jose, California, a newspaper of general circulation, printed and published every Wednesday and Friday in the city of San Jose, County of Santa Clara; and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Santa Clara, State of California, under the Date of December 10, 1964, Case Number 160889; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

December 26, January 2

all in the year 19 73&74

I certify or declare) under penalty of perjury that the foregoing is true and correct.

Dated at San Jose, California, this

2nd of January, 19 74

Ruth Redfern

Signature

This space is for the County Clerk's Filing Stamp

✓ 400 Planning Mtg x Legal

Ad #85-ES

PROOF OF PUBLICATION OF

Notice of Hearing
PO# 8583

LEGAL NOTICE

NOTICE OF TIME AND PLACE
OF PUBLIC HEARING ON PROPOSED
WORK OF IMPROVEMENT AND COSTS THEREOF
WITHIN THE EAST ZONE
OF SANTA CLARA COUNTY FLOOD CONTROL
AND WATER DISTRICT

NOTICE IS HEREBY GIVEN that the 19th day of February 1974 at the hour of 7:00 p.m., in the Multipurpose Room at Piedmont Hills High School, 1377 Piedmont Road, San Jose, California, is the time when and the place where a public hearing will be held on the Resolution of the Board of Directors of the Santa Clara County Flood Control and Water District specifying intention to undertake a work of improvement ("project") within and for the benefit of the East Zone of the Santa Clara County Flood Control and Water District;

That plans for the construction of said project are contained in an Engineer's Report of proposed improvements for the said Zone titled, REPORT ON EAST FLOOD CONTROL ZONE PROJECTS EAST ZONE E-1, which said report also contains maps of the Zone showing the general location and general construction of said project and is on file in the office of the Clerk of the Board of Directors, 5750 Almaden Expressway, San Jose, California, and may also be seen by any interested person at the following locations:

Santa Clara County Library
Alum Rock Branch
2874 Alum Rock Avenue
San Jose, California

Santa Clara County Library
Community Center
160 North Main
Milpitas, California

Santa Clara County Library
Fiesta Shopping Center
Milpitas, California

City of San Jose Library
Hillview Branch
2255 Ocala Avenue
San Jose, California

City of San Jose Library
Seventrees Branch
3597 Cas Drive
San Jose, California

City of San Jose Library
Berryessa Branch
3311 Noble Avenue
San Jose, California

City Clerk's Office
City of San Jose
801 North First Street
San Jose, California

City of San Jose Library
Main Branch
180 West San Carlos
San Jose, California

Santa Clara County Library
Morgan Hill Branch
17575 Peak Avenue
Morgan Hill, California

Santa Clara County Library
Sunnyhills Branch
115 Dixon Road
Milpitas, California

City of San Jose Library
East San Jose Branch
23rd and Santa Clara
San Jose, California

City Clerk's Office
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, California

which are within said Zone. Other locations are as follows:

Santa Clara County Library
Main Branch
10400 Torre Avenue
Cupertino, California

City of San Jose Library
Alviso Branch
1060 Taylor Street
San Jose, California

The cost of the work to be borne by said Zone, according to engineering estimates is $61,340,000;

That at the time and place fixed for said hearing or at any time to which said hearing may be continued, said Board will consider all written and oral objections to the proposed project; that upon the conclusion of the hearing the Board may abandon the proposed project or proceed with the same unless prior to the conclusion of said hearing written protests against the proposed project signed by a majority in number of the registered voters resident within said Zone be filed with the Board, in which event further proceedings relating to such project shall be suspended for not less than six (6) months following the date of the conclusion of said hearing, or said proceedings may be abandoned in the discretion of the Board;

That any registered voter residing within said Zone may file written protest against the proposed project at said hearing prior to its conclusion, or such protest may be filed prior to the time of such hearing in the office of the Clerk of said District Board, 5750 Almaden Expressway, San Jose, California.

Dated: 12-18-73

Violet V. Enander
Clerk, Board of Directors
Santa Clara County Flood Control
and Water District

PUB: 12-26-73,1-2-74-85ES

Planning RK
x Legal

This space is for the County Clerk's
Filing Stamp

PROOF OF PUBLICATION

(2015.5 C.C.P)

STATE OF CALIFORNIA,

County of Santa Clara

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the

EAST SAN JOSE SUN

696 Kings Row, San Jose, California, a newspaper of general circulation, printed and published every Wednesday and Friday in the city of San Jose, County of Santa Clara; and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Santa Clara, State of California, under the Date of December 10, 1964, Case Number 160889; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

December 26

all in the year 19 73

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at San Jose, California, this

26th of December, 19 73

Ruth Redfern

Signature

Ad-84-ES

PROOF OF PUBLICATION OF

Notice of Hearing

LEGAL NOTICE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Directors of Santa Clara County Flood Control and Water District will conduct a PUBLIC HEARING on the environmental impact of a proposed District project known as

EAST FLOOD CONTROL ZONE PROJECT

on the 19th day of February 1974 at the hour of 7:00 p.m. in the Multipurpose Room at Piedmont High School, 1377 Piedmont Road, San Jose California.

The draft Environmental Impact Report on said project is available for review at the District office at 5750 Almaden Expressway, San Jose, California and at the following locations:

Santa Clara County Library
Alum Rock Branch
2874 Alum Rock Avenue
San Jose, California

City of San Jose Library
Seventrees Branch
3597 Cas Drive
San Jose, California

Santa Clara County Library
Fiesta Shopping Center
Milpitas, California

City of San Jose Library
Berryessa Branch
3311 Noble Avenue
San Jose, California

Santa Clara County Library
Community Center
160 North Main
Milpitas, California

City Clerk's Office
City of Milpitas
455 E. Calaveras Blvd.
Milpitas, California

Santa Clara County Library
Sunnyhills Branch
115 Dixon Road
Milpitas, California

City Clerk's Office
City of San Jose
801 North First Street
San Jose, California

City of San Jose Library
Hillview Branch
2255 Ocala Avenue
San Jose, California

City of S.J. Library, East S.J. Branch
23rd & Santa Clara
S.J., Calif.

City of San Jose Library
Main Branch
180 West San Carlos
San Jose, California

Santa Clara County Library
Main Branch
10400 Torre Avenue
Cupertino, California

City of San Jose Library
Alviso Branch
1060 Taylor Street
San Jose, California

Santa Clara County Library
Morgan Hill Branch
17575 Peak Avenue
Morgan Hill, California

Said draft Environmental Impact Report will be used as the basis for discussion at said hearing.

Comments on the draft Environmental Impact Report which will be specifically treated in the final Environmental Impact Report MUST BE IN WRITING and must be received at the District office before the close of business on January 25, 1974.

All persons in any wise interested in or affected by said proposed project are invited to be present and to participate in the hearing process.

Dated: 12-18-73

Violet V. Enander
Clerk of said Board of Directors

PUB: 12-26-73-84ES

PROOF OF PUB

San Jose

750 RIDDER PARK
SAN JOSE, CALIF

IN THE

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

In the Matter of

Santa Clara Co. Flood Control & Water District

Notice of Time and Place of Public Hearing on

Proposed Work of Improv. within the East Zone

No.

NOTICE OF TIME AND PLACE
OF PUBLIC HEARING ON PROPOSED
WORK OF IMPROVEMENT AND COSTS THEREOF
WITHIN THE EAST ZONE
OF SANTA CLARA COUNTY FLOOD CONTROL
AND WATER DISTRICT

NOTICE IS HEREBY GIVEN that the 19th day of February 1974 at the hour of 7:30 p.m., in the multipurpose room at the Piedmont Hills High School, 1377 Piedmont Road, San Jose, California, is the time when and the place where a public hearing will be held on the Resolution of the Board of Directors of the Santa Clara County Flood Control and Water District specifying intention to undertake a work of improvement ("project") within and for the benefit of the East Zone of the Santa Clara County Flood Control and Water District.

That plans for the construction of said project are contained in an Engineer's Report entitled, REPORT ON EAST FLOOD CONTROL ZONE PROJECTS EAST ZONE D-1, which said report also contains maps of the Zone showing the general location and general construction of said project and is on file in the office of the Clerk of the Board of Directors, 5150 Almaden Expressway, San Jose, California, and may also be seen by any interested person at the following locations:

Santa Clara County Library
Alum Rock Branch
2574 Alum Rock Avenue
San Jose, California

Santa Clara County Library
Fiesta Shopping Center
Milpitas, California

City of San Jose Library
Hillview Branch
2245 Ocala Avenue
San Jose, California

City of San Jose Library
Seventrees Branch
5697 Cas Drive
San Jose, California

City of San Jose Library
Berryessa Branch

Santa Clara County Library
Community Center
180 North Main
Milpitas, California

Santa Clara County Library
Sunnyhills Branch
118 Diana Road
Milpitas, California

City of San Jose Library
East San Jose Branch
33rd and Santa Clara
San Jose, California

City Clerk's Office
City of Milpitas
455 East Calaveras Boulevard
Milpitas, California

STATE OF CALIFORNIA
COUNTY OF SANTA CLARA } ss.

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to nor interested in the above entitled proceeding, and was at and during all said times and still is the principal clerk of the printer and publisher of the SAN JOSE MERCURY, a newspaper of general circulation printed and published daily (except Sundays) in the city of San Jose in said County of Santa Clara, State of California, that said SAN JOSE MERCURY is and was at all times herein mentioned a newspaper of general circulation as that term is defined by Sections 6000 and following, of the Government Code of the State of California, and, as provided by said sections, is published for the dissemination of local or telegraphic news and intelligence of a general character, having a bona fide subscription list of paying subscribers, and is not devoted to the interests or published for the entertainment or instruction of a particular class, profession, trade, calling, race or denomination, or for the entertainment and instruction of any number of such classes, professions, trades, callings, races or denominations; that at all times said newspaper has been established, printed and published in the said city of San Jose in said County and State at regular intervals for more than one year preceding the first publication of the notice herein mentioned; that said notice was set in type not smaller than nonpareil and was preceded with words printed in black-face type not smaller than nonpareil, describing and expressing in general terms, the purport and character of the notice intended to be given; that the clipping of which the annexed is a true printed copy was published and printed in said newspaper on the following dates, to-wit:

December 26, 1973, January 2, 1974

Dated at San Jose, California

this 4th day of January, 19 74

I declare under penalty of perjury that the foregoing is true and correct.

file Eng Rpt xEIR

ISTRICT

5750 ALMADEN EXPRESSWAY • SAN JOSE, CALIFORNIA 95118 • (408) 265-2600

ecember 26, 1973

Enclosed is the East Flood Control Zone Projects Planning Study relative to proposed flood control improvements on eighteen streams within the East Zone.

Please be advised that the location of the Public Hearing on the proposed Project and the Environmental Impact Report scheduled on February 19, 1974 at 7 p.m. at the Mount Pleasant High School has been changed to Piedmont Hills High School, 1377 Piedmont Road, San Jose. The date and time of the hearing are the same. The meeting will be held in the multipurpose room.

I look forward to your attendance and participation in this most important meeting.

Sincerely yours,

Bernard H. Goldner

Dr. Bernard H. Goldner
Environmental Specialist

Enclosure - Summary report only
No report attached
Distribution list attached
SEE 4000 EIR

NEW DIRECTIONS
REAL ESTATE SERVICES

Shari Moira Leigh
Realtor
RES. 395-7943

2215 South Bascom Avenue
Campbell, California 95008
(408) 377-8860

Hazel Hall
238-0644

Jean Glick
2457 Klein Road
San Jose, Ca 95148
238-0663

Bruce Tichinin
779-9194

~~241-5688~~